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ABSTRACT

Four days of hearings in September, 1977 were conducted on the need to reorganize the Bureau of Indian Affairs (BIA) with particular attention devoted to H.R. 9157, a bill to change the Bureau's Office of Education programs. Opening the testimony was a panel of BIA officials, including Forrest Gerard, Assistant Secretary for Indian Affairs. Mr. Gerard stated that reorganization would be initiated immediately and should be completed within a year and a half, adding that the management study of the American Indian Policy Review Commission would be used as a basis for the reorganization. Representatives of national Indian organizations and various tribes as well as officials from a number of Indian schools appeared to voice concerns about the proposed bill. Some of the areas they cited as needing attention included funds for facility construction, research to establish standards for basic education of Indian children, special education of both handicapped and gifted children, hiring practices (including the question of whether Indian preference was always desirable), teacher education programs, and the need for direct funding to tribal governments. Two witnesses from the National Indian Education Association and the National Congress of American Indians questioned whether the education services of the BIA should be pulled out and legislated separately from the rest of the Bureau, especially at a time when that agency was attempting a reorganization. (DS)

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INDIAN EDUCATION—OVERSIGHT

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Part III: Bureau of Indian Affairs—Reorganization

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

HEARINGS HELD IN WASHINGTON, D.C.
SEPTEMBER 26, 28, 29, AND 30, 1977

Printed for the use of the Committee on Education and Labor
Carl D. Perkins, *Chairman*

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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INDIAN EDUCATION—OVERSIGHT

Part III: Bureau of Indian Affairs—Reorganization

MONDAY, SEPTEMBER 26, 1977

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The Advisory Study Group on Indian Education, in conjunction with the Subcommittee on Elementary, Secondary, and Vocational Education, met, pursuant to notice, at 1:10 p.m. in room 2261, Rayburn House Office Building, Hon. Michael T. Blouin (chairman of the Advisory Study Group on Indian Education) presiding.

Members present: Representatives Blouin, Mottl, Quie, and Pressler.

Staff present: Alan Lovesee, counsel, Jeff McFarland, Mary Fran Breathitt and Scherri Tucker, majority staff; Christopher Cross, minority senior education consultant; Jennifer Wysong, minority research assistant.

Mr. Blouin. The hearing will come to order. This hearing is being held by the Elementary, Secondary, and Vocational Education Subcommittee in conjunction with the Advisory Study Group on Indian Education to further its understanding of Indian education problems and to elicit responses to H.R. 9157.

First of all let me say I am very happy to greet Mr. Forrest Gerard, the new Assistant Secretary of the Bureau. The Bureau has been too long without a permanent leader. I am very relieved that finally a leader has been appointed. I'm happy that it is a person of your stature. I look forward to working with you, Mr. Gerard, and the Bureau to improve educational opportunities for all Indian students.

This week we will have oversight hearings on the Bureaus educational program. Particular attention will be given to H.R. 9157, a bill to reorganize the Bureau's Office of Education programs which Congressman Quie and I have cosponsored and which is being considered by this subcommittee.

The impetus for this piece of legislation is threefold: No. 1; the Snyder Act under which the Bureau primarily functions is an inadequate congressional mandate for a service-oriented program such as education. Circumstances have changed over the past 50 years. The direction of self-determination set by the Congress over the past 5 years necessitates new Congressional action. Frankly the Bureau's seeming inability to set up-to-date policies and procedures can be traced to a great extent to Congress failure to set goals and expectations for the Bureau to follow.

No. 2, the Bureau's unresponsiveness to change, even when problems are repeatedly pointed out and solutions proposed.

No. 3, finally, this bill is the result of the work of the Advisory Study Group and reflects the problems and solutions that we have found in our field trips to Indian areas across the country.

Mr. Gerard, let me suggest to you that this is the best method for determining the true situation. We have found that it is almost impossible to deal from from a point of knowledge by sitting in a Washington office or in a Washington hearing room. I have learned a great deal in my field visits. We will continue that effort ourselves.

We feel that this bill addresses our findings to a very great extent. However we are aware that solutions still remain in the formative stage. For this reason we hope that witnesses over these next several days will address themselves to the overall issues and propose modifications, additions, deletions or suggestions that all of them feel would be of value to our ultimate goal. We want this package of legislation to solve problems, not contribute to them. We want them to bring about some permanent solutions, not temporary additions to the confusion that already reigns.

Due to time constraints this week and the number of witnesses here today, we have five witnesses from BIA here as one panel.

I understand that both Mr. Gerard and Mr. Demmert have statements. We would appreciate it if you would read those, summarize them or whatever you prefer. But don't leave any of the content out of it. If you want to make your points, make them and we will go from there.

One word of explanation. We have a series of District of Columbia bills on the floor. We are probably going to be interrupted for the next 45 minutes or an hour, off and on, with the votes. I don't think there is any way we can avoid it. We have tried that before and it doesn't work. So you will just have to bear with us. Thank you.

Mr. Gerard, please proceed.

STATEMENT OF A PANEL CONSISTING OF FORREST GERARD, ASSISTANT SECRETARY, BUREAU OF INDIAN AFFAIRS; JOSE A. ZUNI, DIRECTOR, OFFICE OF ADMINISTRATION; DR. WILLIAM DEMMERT, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS; IRENE FISHER, PERSONNEL OFFICE; JOSEPH GORRELL, BUDGET OFFICE, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. GERARD. Mr. Chairman, members of the committee, I am pleased to make my first appearance before this subcommittee. I have every expectation that our relationship will result in the improvements in the field of Indian education because we see such improvements as a common goal.

In recognition of the time element, Mr. Chairman, I have a 12⅓-page statement. Rather than run the risk of putting you to sleep on my first visit before you, with your permission I would like to submit that for the record and summarize the statement.

Mr. BLOUIN. That would be fine.

Without objection it will be submitted entirely for the record.

Mr. GERARD. Very good.

[The prepared statement of Mr. Gerard follows:]

STATEMENT OF FORREST J. GERARD, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES OVERSIGHT HEARING ON REORGANIZATION OF THE BUREAU OF INDIAN AFFAIRS, SEPTEMBER 26, 1977.

Mr. Chairman and members of the Subcommittee, I am pleased to make my first appearance before this Subcommittee. I have every expectation that our relationship will result in the improvements in the field of Indian education because we share such improvements as a common goal.

At this time I would like to discuss the background of the Interior Department's plans for the improvement of the management of the Bureau of Indian Affairs and outline those plans. I understand that I am scheduled to return on Thursday afternoon for further testimony on the reorganization.

In my testimony before the Senate Indian Affairs Committee's hearings on confirmation of my nomination to be the first Assistant Secretary of the Interior for Indian Affairs I stated that, if confirmed, I would be committed to:

1. strengthening the Bureau's capacity to carry out the trust responsibility of the United States to Indian tribes and people;
2. strengthen tribal governments; and
3. improve service delivery to the tribes either through direct BIA programs or through self-determination mechanisms initiated by the tribes.

In order to carry out these commitments I will act as advocate for the Indian people, keeping in mind always the trust relationship.

For the past 150 years the Bureau of Indian Affairs has been the agency in the Federal Government charged with carrying out the major portion of the trust responsibility to Indian tribes. Because of this long standing role the Bureau has often been criticized for its seeming inability to carry out the trust and program responsibilities to the tribes. Although some criticism is surely warranted, the Bureau has not always been able to respond fully to all demands because of inadequate staffing, structure and resources.

Recently there has been an increasing awareness on the part of Congress and the Administration that changes must be made not only in the Bureau but in Indian Affairs generally so that the needs of Indian people will be better served.

This awareness is evidenced by the enactment of Public Law 93-638, the Indian Self-Determination and Education Assistance Act, and the completion of the study of Indian Affairs by the Policy Review Commission. Both have underscored the need for a major overhaul of the Bureau.

In the first instance, P.L. 93-638 added a new dimension to Indian affairs by institutionalizing the concept of tribes being able to determine for themselves the priorities on their reservations. In doing this it also created new roles not only for the Bureau, but for the tribal government as well.

The Act made it possible for tribes to exercise, at their option, direct control and management of a great number of Bureau programs previously dominated totally by Federal officials.

For the Bureau, the Act placed high-level managers in the position of having to give up control of programs (manpower, money and materials), to the tribes. It also added the responsibility to provide training and technical assistance to tribes to allow them to assume their new roles.

Unfortunately, experience has shown that P.L. 93-638 has not been implemented as smoothly and as effectively as it might have been if the Bureau's organizational structure had been geared to a rapid relinquishment of programs. Also it should have been impressed upon Bureau employees that the new law represents a process and not just another program to be added to the organization's long list of activities.

Perhaps the most noted legal expert in the field of Indian affairs was Felix Cohen. In a 1949 article he noted that previous attempts by the Congress to transfer control of programs to tribes have not been successful.

In 1834, the House Committee on Indian Affairs urged that the Indian Bureau work itself out of a job by turning over the various jobs in the Bureau itself to the Indians and by placing Indian Bureau employees on the various Indian reservations under the control of the tribes. Those recommendations were written into law and are still law codified in sections 45 and 48 of title 25 of the U.S. Code.

A hundred years later, the Indian Reorganization or Wheeler-Howard Act of 1934 was intended to provide a basis for tribal "home rule" and strengthen the ability of tribes to take over function dominated and controlled by employees who are responsible to other federal employees and officials rather than to the tribe.

In his 1949 article, Felix Cohen used the term "self-government" in almost the same way as the term "self-determination" is used in connection with P.L. 93-638. He expressed his view of the reasons why the IRA did not result in a transfer of control as follows:

"Not all who speak of self-government mean the same thing by the term. Therefore let me say at the outset that by self-government I mean that form of government in which decisions are made not by the people who are wisest, or ablest, or closest to some throne in Washington or in Heaven, but, rather by the people who are most directly affected by the decisions. I think that if we conceive of self-government in these matter-of-fact terms, we may avoid some confusion.

"Let us admit that self-government includes graft, corruption, and the making of decisions by inexpert minds. Certainly these are the features of self-government in white cities and counties, and so we ought not to be scared out of our wits if somebody jumps up in the middle of a discussion of Indian self-government and shouts 'graft' or 'corruption.'

"Self-government is not a new or a radical idea. Rather, it is one of the oldest staple ingredients of the American way of life. Many Indians in this country enjoyed self-government long before European immigrants who came to these shores did."

"I recall that when we were helping Indians draft the constitutions and charters which were supposed to be the vehicles of self-government under the Wheeler-Howard Act, all of the Indian Bureau officials were very strongly in favor of self-government, and in favor of allowing all tribes to exercise to the full extent their inherent legal rights. There was only one difficulty. The people of the Education Division were in favor of self-government in forestry, credit, leasing, law and order, and every other field of social activity except education. Of course, education, they thought, was a highly technical matter in which tribal council politics should have no part. Education should be left to the experts, according to the experts, and the experts were to be found in the Education Division. Similarly, with the Forestry Division. They were all in favor of self-government with respect to education, credit, agricultural leases, law and order, and everything else except for forestry. Forestry, of course, involved matter of particular complexity and difficulty in which the experts ought to make the decisions, and the experts, of course, were to be found in the Forestry Division. So it was with the Credit Section, the Leasing Section, the Law and Order Division, and all the other divisions and subdivisions of the Indian Bureau.

"The result was that while every official was in favor of self-government generally, by the same token he was opposed to self-government in the particular field over which he had any jurisdiction. In that field he could see very clearly the advantages of the expert knowledge which he and his staff had accumulated, and the disadvantages of lay judgment influenced by so-called political considerations which would be involved in decisions of local councils."

Mr. Cohen's statement provide both a background and a warning as to pitfalls on the road to local tribal control.

I am sure that the Committee is aware that the Congressionally mandated report of the American Indian Policy Review Commission represents the most exhaustive study of American Indian Affairs since the Merriam Report was published in 1928. This report of 602 pages and more than 200 separate recommendations will have a profound impact on all of Indian affairs. Taken together the recommendations stand as a guide for undertaking constructive policy initiatives in this field.

The need and format for a reorganization of the Bureau was brought into sharp focus in the Bureau of Indian Affairs Management Study which was mandated by Congress when it established the Commission. That report calls for a radical restructuring of the Bureau and redelegations of authorities to the tribal level.

When the Senate Indian Affairs Committee held hearings on that study July 29, 1977, Under Secretary James Joseph underscored the Administration's commitment to improve the role of the Bureau through reorganization. He also said the Department of the Interior would use the Management Study as a guide for such reorganization. I want to reinforce the Under Secretary's commitment to use the Management Study as a guide because the study suggests that such a reorganization be accomplished through a rational process rather than in a piecemeal fashion.

Of course we shall also consider any recommendations made by the Education and Labor Committee.

I want to further state that throughout this process the Indian community will be given every opportunity to fully participate.

The Administration in statements by both the Secretary and Under Secretary of the Interior, has clearly demonstrated the importance it places on a fundamental reform of the Bureau.

We also have heard the House and Senate Appropriations Committees say there must be meaningful reform of the Bureau. The Indian people, both individually and collectively, have called for fundamental changes in the Bureau. Therefore, let us accept the proposition that many voices are calling for a major reorganization of the Bureau of Indian Affairs but let us also ask ourselves the question, "Reorganization to what end?"

I believe that if the Bureau is going to assume a long range role in Indian affairs which will have meaning and substance for those affected by it, it must stop taking an ad hoc, short-sighted approach to planning problems facing Indian tribes.

It seems that the Bureau often has operated on a never-ending crisis syndrome of reacting as the emergency arises. This approach does nothing to solve the complex problems facing Indian tribes.

Consequently, I want to see the Bureau moving toward an organization that would develop more comprehensive planning processes in order to achieve both short and long-range goals and objectives.

Mr. Chairman, as a first step in strengthening the administration of Indian affairs within the Department of the Interior, Secretary Andrus announced the creation of a new position -- Assistant Secretary for Indian Affairs. This change of status provides an unparalleled opportunity for Indians to influence policy at the highest levels of the

Department. The Assistant Secretary will participate more in policy formulation in the Office of the Secretary and will be more directly involved with the Office of Management and Budget, and the Congress. Never before in the long history of Federal-Indian relations has the head of the Bureau been so strategically placed within the Executive Branch.

The Secretary, the Under Secretary, and I firmly believe that it would be a mistake to rush into structured changes in the BIA without careful planning. We intend to make major changes, but we want to insure that they do not cause major interruptions in the flow of services to Indian people, and we will seek active participation from the Indian community throughout this process.

The AIPRC's Management Study includes 23 recommendations for improving management activities in the BIA. I believe that the most important aspect of the Study relates to the organizational structure of the Bureau and includes charges that the present structure results in excessive administrative costs, slow decision making, and poor communications both within the BIA and with the respective tribes. It particularly single out the area offices and indicates that they are a major factor in the failures of the Bureau.

As I believe this Committee is aware from its hearings and studies, there is ample evidence of a failure of administrative and supervisory support by the Bureau for the operations of the Bureau's education program. There is also evidence that this failure has not been limited to the field of education but extends to trust and other program areas as well.

We believe that in order to carry out its trustee functions and fully implement P.L. 93-638, the BIA must be organized for a new primary role as a technical assistance agency. We also believe that 1) administrative overhead can and should be reduced so that more funds are available for programs in Indian communities; 2) maximum decision making authority should exist at the local agency level; and 3) intermediate levels of activity which constrict the flow of services and slowdown decision making should be streamlined and eliminated where not justified.

The AIPRC Study recommends that the supervision of education and other functional program activities in the central office should be strengthened and that more effective monitoring, evaluation, and audit activities must be achieved. We are concerned with an apparent inconsistency between a stronger reporting line to the central office while at the same time intending to achieve greater decentralization through tribal control. Such a delicate balance may be difficult to achieve and we shall be giving special attention to this aspect to assure that the objective of tribal control is not lost as it was after the 1834 and 1934 legislative efforts to achieve such local control.

With regard to the extensive criticism of the area offices and their administration of education and other activities, we agree that fundamental rather than cosmetic changes are needed.

We intend to make those changes. However, the AIPRC Management Study recommendation that these functions be transferred to the central office and regional and local service centers will require detailed planning in order to insure that the transfer occurs with minimal interruption of essential services. We must carefully consider the ability of the central office to respond directly and effectively to the needs of each of the currently over 80 local (BIA) agencies, schools, and installations and the needs of the more than 400 tribal units which they serve.

We are well aware that the closure of some offices would affect local personnel and economies and this will be an important consideration. We will consult closely with the Committee and members of Congress as to these impacts.

Both the Study and the Commission's Report express concern for proper follow-up so as to insure that the needed improvements in Bureau management occur. We share that concern and assure the Committee that it is our full intent that proper follow-up will take place. To accomplish this, we plan to take the following actions in the near future to guide us in implementing the improvements envisioned by the Study.

First, a task force will be appointed to work directly with the Under Secretary and the Assistant Secretary for Indian Affairs in reorganizing the Bureau. They will have direct access to the Secretary through the Under Secretary and will be charged with advisory responsibility for effecting the management improvements in the major areas covered by the functional report section of the Study, as well as others which might be identified as their activity progresses.

Although the composition of the task force is not yet set, it will include several representatives from the Indian community, experienced organizational management experts from the private sector and at least two senior management officials within the Bureau who have a proven record of amicable working relationships with the Indian Community.

Secondly, the Office of the Secretary will assume an overall role in a continuing review of the recommendations of the Policy Review Commission, and particularly those aspects relating to the future organization and structure of the Bureau. Recognizing that my day-to-day responsibilities and those of the Under Secretary will preclude our providing full-time direction to this effort, a Special Assistant to the Under Secretary will be appointed to assist us in coordinating the work of the task force and the overall planning for the reorganization of the Bureau.

Third, the implementation of the reorganization of field operations will be under my direction assisted by Departmental personnel from a variety of areas.

Fourth, the Assistant Secretary for Program, Budget and Administration will provide staff support for the planning and implementation of all changes in the budget process.

Fifth, I will be a member of the advisory Task Force on BIA Reorganization and will exercise overall responsibility for implementation of Secretarial policy, but a primary initial responsibility will be to insure that there are no interruptions in present services while reorganization is taking place.

Sixth, the implementation process will include direct involvement by the Secretary, the Under Secretary and the Solicitor. We will be working with other Assistant Secretaries and others in the Office of the Secretary to give renewed attention to Indian Affairs as a major departmental priority. This is a commitment the Secretary and Under Secretary have affirmed to all of the Bureaus in the Department as well as to Indian tribes, the Senate Indian Affairs Committee, and the American public.

Seven, we will continue to use the Management Study to help achieve management improvements in the Bureau. We recognize that the Study did not anticipate nor recommend the completion of reorganization immediately. Sufficient planning must be done to insure continued services. But we are convinced that a genuine rather than cosmetic reorganization is long overdue and we plan to move as expeditiously as possible.

Eight, we intend to consult regularly with this and other Congressional Committees and their staffs as we seek together to insure that the major Federal agency serving Indian people is managed in such a way as to serve the best interests of its constituents.

In conclusion, my long-range view of the Bureau of Indian Affairs is one of an organization that will be seen by the Indian tribes as an advocate rather than an adversary; that will serve as a dynamic force in carrying out the unique trust relationship between Indian tribes and the United States Government; and that will fulfill its trustee and programmatic responsibilities to Indians.

I am aware that a draft bill relating to the organization and administration of Indian education activities within the BIA has been circulated by the Committee to a number of BIA employees and others. I have not had an opportunity to consider that draft in any detail. However, insofar as it is intended to force an answer to the administrative problems which are within the power of the Secretary of the Interior to solve, I can assure the Committee that we intend to fulfill our responsibilities and solve those problems within the Department. I would like to reserve at this time, any judgement as to whether legislative action is needed to solve problems such as those in teacher or other personnel recruitment which may be beyond the control of the Secretary.

I will be pleased to answer any questions the Committee may have.

Mr. GERARD. Mr. Chairman, at the time of my testimony before the confirmation committee in the Senate, I committed to three fundamental objectives or priorities if confirmed: One, to strengthen the Bureau's capacity to fulfill its trust responsibility to the Indian tribes; two, to strengthen tribal governments so that they become a more viable mechanism at the reservation level; and three, to improve service delivery to the tribes either through direct BIA programs or self-determination mechanisms. In carrying out these commitments I further committed that I would act as an advocate for the Indian people, keeping in mind always the unique trust relationship.

It seems to me that in the 150 years or so that the Bureau has served as the primary Federal agency in carrying out a substantial portion of the trust responsibility it has come under a lot of criticism, much of it warranted and some unwarranted, I submit, due to the fact that it sometimes has not been properly structured in the organization. I think too we can point to inadequate resources in terms of funding and personnel at times. But nonetheless I think there are some warranted criticisms that we address ourselves today.

I think also there has been an increasing awareness on both the Congress and the administration that changes must be made. A couple of dynamics I would point to in this regard is the congressional enactment of Public Law 93-638, the Indian Self-Determination and Education Assistance Act. A second dynamic would be the completion of the study by the American Indian Policy Review Commission. Both have underscored the need for major overhaul of the Bureau.

With respect to 638, that act institutionalized the concept of self-determination, giving the tribes the right to control and shape programs at the reservation level. This is optional for the Indian tribes. I think for the bureaucracy it placed the managers of programs within the Bureau in the position for the first time of really having to give up control of programs, men, money, and materials, the life blood of bureaucracy, so to speak. It added a further responsibility to the bureaucracy to provide training and technical assistance to the tribes to allow them to fulfill their new roles.

I think we have enough evidence to indicate that there have been some problems in implementing that new act and we hope to address some of our initial activities to trying to figure out some of the problems in that regard.

I would like to go directly to the Policy Review Commission report and suggest that it is really the most comprehensive study of Indian affairs since the Merriam Report was published in 1920. The Policy Review Commission report is over 602 pages and contains more than 200 recommendations which we believe will have a profound impact on Indian affairs in the future.

The need and format for reorganization of the Bureau of Indian Affairs was brought into sharp focus in the Bureau of Indian Affairs management study which was mandated by the Congress in connection with the Commission's work. That report calls for radical restructuring of the Bureau and redelegation of authorities to the tribal level.

The Senate Select Committee on Indian Affairs held an oversight hearing on that report on July 29, 1977. At that time the Under Secretary, Mr. Joseph, underscored the administration's commitment to improve the role of the Bureau through reorganization and further agreed that the Department would use the management study as a guide for such reorganization.

That commitment has been reenforced subsequently by both the Secretary and myself during my confirmation hearings and in the process of reorganization of course we will want to consider any recommendations made by this committee as well and we would stress that we intend and have made this commitment to the Indian people and we will include them in that reorganization process.

I think if this isn't enough evidence of the need for reorganization of the Bureau to make it a more responsive organization we need only look to a couple of other places to be convinced. Both the House and the Senate Appropriation Committees in reviewing the 1978 fiscal year budgets of the Bureau handed down harsh indictments and called for fundamental reform. Also there have been traditional requests of Indians individually and collectively to reform and restructure the Bureau.

As a longtime Washington person I have seen a number of reorganizations and I am sure you have witnessed a few in your tenure in office. I think we have to ask ourselves this question. There are a number of places calling for reorganization. I think it is only fair to ask, reorganization to what end?

Mr. Blouin. We are going to stop at this point until I get back.

[Whereupon, at 1:23 p.m. the subcommittee recessed until 1:42 p.m. the same day.]

AFTER RECESS

[The Subcommittee on Elementary, Secondary, and Vocational Education reconvened at 1:42 p.m., Hon. Albert H. Quie presiding.]

Mr. Quie. Mr. Gerard, if you are going through your testimony, why don't you proceed and we will let Mr. Blouin catch up?

Mr. Gerard. This will probably be a slight disadvantage for you, sir, since I have completed about one-half of it. But I will pick up where I left off.

Mr. Quie. I will listen to the second half and read the first half at the same time.

Mr. Gerard. I just made the point, Mr. Chairman, that if the Bureau of Indian Affairs is going to be recognized, I think it is only fair to ask the question, reorganization for what end? It seems to me that the Bureau currently is engaged in short-range crises. But we never get beyond really a crisis syndrome.

What I would like to see is a reorganization that would permit us to think in terms of long-range developing planning process that would be wedded to the budget process and to get out of the never-ending crisis and emergency situation. So, consequently, we see the Bureau moving to that kind of an organization.

As a first step to strengthen the Bureau of Indian Affairs, Secretary Andrews created the position which I now occupy, the Assistant Secretary of the Interior for Indian Affairs.

In my view this change provides really an unparalleled opportunity for Indians to influence policy at the highest levels in the Department. Unlike the past, when the Commissioner who was the nominal head of the Bureau, had to report to different layers, the Assistant Secretary for the Indian Affairs will be on par with other Assistant Secretaries. He can report directly to the Secretary, the Solicitor, and will have a lot of direct contact with the Office of Management and Budget and the Congress.

So through this process I believe that policy can be better influenced in the Indian field. I am hopeful that in the area of education, for example, this new post will enable me to work more closely with your committee in achieving some of the mutually desirable goals.

With respect to actual restructuring, the Secretary, the Under Secretary, and I believe rather firmly that it would be a mistake to rush into structure changes in the BIA without careful planning. That is the reason why we have been willing to use the American Indian Policy Review Commission's management study report as a general guide in terms of restructuring the Bureau, because it suggests that the restructuring or reorganization be carried out through a process rather than piecemeal fashion. If we were to pursue the later course, I think there could be serious disruption in services at the field level.

One of the other elements of reorganization with specific reference to education, I believe, ought to be addressed to some of the criticisms that have come up in the past. There is a fair amount of evidence that unfortunately some of our support services personel procurement and so on have not served education as sufficiently, as effectively, as they might have if we had a better organizational structure. But I would point out further that this shortcoming also, I believe, has its impact on other functions of the Bureau as well. It is not just education that suffers. So any reorganization we undertake to improve support services must be designed of course to help the trust function and other program activities that we are charged with administering.

I guess no reorganization of the Bureau of Indian Affairs would be complete if we did not talk about the area offices. There are 12 offices. I view these as our middle level of management. Given the wide dispersion of our responsibilities, from, really, Alaska to the Everglades, I think we would all agree that we need some sort of middle-level management.

But with the new policy of Indian self-determination and local control, I think that what is important in reorganization is talking about the need to change the character and function of those area offices.

I am rather intrigued with the recommendation in the Policy Review Commission's Management Study report that the area offices be converted from straight-line administrative offices more to training and technical assistance offices. That report further recommends that the 12 area offices be closed out and replaced by 6 regional service centers.

I am not so sure that we want to go that far because I think some of the tribes and perhaps some communities might object to the closure of those offices. I think we can accomplish the same thing by leaving those offices in place and changing their character and function.

Several pages of my statement get into the mechanics of how we would follow that reorganization. I am not going to read that because I think that would be rather time consuming. I would like to jump over to page 12 and pick up from there at the bottom.

I am fully aware that a draft bill, relating to the organization and administration of Indian education activities within the Bureau of Indian Affairs has been circulated by the committee to a number of BIA employees and others. I learned just today that the contents of that bill are now embodied in H.R. 9157. I have not had an opportunity to consider that draft nor this bill in any detail. However, insofar as it is intended to force an answer to the administrative problems which are within the power of the Secretary of the Interior to solve, I can assure the committee that we intend to fulfill our responsibilites and solve those problems within the Department.

I would therefore like to reserve at this time any judgment as to whether legislative action is needed to solve problems such as those in teacher or other personnel recruitment which may be beyond the control of the Secretary.

Mr. Chairman, that concludes my verbal summary of the statement, and I would respectfully defer to any questions which you and the members might wish to raise.

Mr. Blouin. Thank you.

Mr. Demmert, you have a statement as well. I would suggest we go to that and then we will go to questions generally.

Mr. Demmert. OK. That would be fine.

[The statement of Dr. Demmert follows:]

STATEMENT OF DR. WILLIAM G. DEMMERT, JR., DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, BUREAU OF INDIAN AFFAIRS BEFORE THE HOUSE ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION SUBCOMMITTEE HEARINGS ON BIA REORGANIZATION, SEPTEMBER 26, 1977.

Mr. Chairman and members of the committee, I would like to thank you for this opportunity to comment on your proposed legislation to reorganize operations of the BIA for the purpose of improving Indian educational services.

As you know, the BIA's Education Office has been working on proposed recommendations for improving educational opportunities for Indian children attending BIA, contract and public schools. These recommendations have been collected through a series of meetings, screened by professionals from within as well as outside the Bureau, and had extensive field review in the BIA system and by tribal members.

The concepts of monitoring and providing technical assistance; development of a school foundation program with direct funding; local authority and responsibility; direct teacher hire; and line authority are consistent among your staff's recommendation, the Indian Policy Review Commission recommendations, and the BIA's Education Office recommendations. This consistency in the materials gathered tends to validate the accuracy of interpreting the recommendations solicited by each of the above mentioned activities. The similarity in concepts also indicates a certain amount of concensus between the various groups and individuals that responded via testimony or direct comments.

There are, of course, some areas of potential conflict like line authority for the Director, creating a self contained education unit i.e, moving all educational related activities out of administration, and the process and method used for any reorganization.

The President, as you know, is undertaking a major reorganization of the administration, including the Bureau of Indian Affairs. This would, of course, have an impact on education. The Department's position is that much of this can be done administratively. Because of this effort to reorganize the total Bureau of Indian Affairs and not just Education, the Department is not in favor of your staff's draft bill.

While the new Assistant Secretary for Indian Affairs agrees with some of the recommendations being made, he feels that legislation is not now necessary and that the reorganization can move forward more smoothly and be accomplished sooner administratively.

The Office of Indian Education Programs has come through a long process of developing recommendations and circulating those recommendations for review and comments. These recommendations will be forwarded to the Assistant Secretary for Indian Affairs for consideration in the overall administrative effort to reorganize.

Thank you. I am prepared to respond to any questions the Committee may have.

Mr. **Demmert**. I would like to thank you for this opportunity to comment on your proposed legislation to reorganize operations of the Bureau and to provide basic support for public schools that enroll large numbers of Indian children.

As you know, the Office of Education of the Bureau has been working on proposed recommendations for the past year. These recommendations have been collected through a series of meetings, screened by professionals from within as well as outside the Bureau and have had extensive field review both in the BIA system and by the tribes.

The concepts of monitoring and providing technical assistance; development of a school foundation program with direct funding; local authority and responsibility; direct teacher hire; and line authority are consistent among your staff's recommendations, the Indian Policy Review Commission's recommendations and the BIA's Education Office recommendations. This consistency in the materials gathered tends to validate the accuracy of interpreting the recommendations solicited by each of the above mentioned activities. The similarity in concepts also indicates a certain amount of concensus between the various groups and individuals that responded via testimony or direct comments.

There are, of course, some areas of potential conflict like line authority for the Director, creating a self-contained education unit, that is, moving all educational related activities out of administration and the process and method used for any reorganization. The President as you know is undertaking a major reorganization of the administration, including the Bureau of Indian Affairs. This would of course have an impact on education. The Department's position is that much of this can be done administratively.

While the new Assistant Secretary for Indian Affairs agrees with some of the recommendations that are being made—I point that out not only because we have had an opportunity to talk conceptually—he feels that legislation is not now necessary and that the reorganization can move forward more smoothly and be accomplished administratively.

The Office of Indian Education programs has come through a long process of developing recommendations and circulating these recommendations for review and comments. These recommendations will be forwarded to the Assistant Secretary for Indian Affairs for consideration in the overall administrative effort to reorganize.

If you have any other questions I will be glad to respond. Thank you.

Mr. **Quie**. Mr. Chairman, one thing that comes to my mind right away, what is your time schedule?

Mr. **Blouin**. We are on the same track. That is the first question I had. What is your timetable?

Mr. **Gerard**. Before the hearing today, Mr. Chairman, in response to both of your questions I had an opportunity to meet with Under Secretary Joseph. He and I have already agreed on specific steps and actions that we will take to immediately begin this reorganization process that we are committed to.

Let me just say quickly that through his contacts with private industry he hopes to encourage several individuals with management and organization expertise to serve on the task force that we have contemplated for the reorganization. It will be my role to invite participants from the Indian community. We already have a special staff assistant selected who will work with him in getting the reorganization underway.

So I think I can safely say it is imminent and we will be happy, even though your committee has not requested it, I will be more than willing to provide you with periodic status reports.

Mr. **Blouin.** Consider it requested.

Mr. **Gerard.** On how that reorganization is shaping up.

Mr. **Quie.** I was asking what your time frame was. It is sort of like saying, "When do you estimate we are going to arrive in the airplane?" and he says, "Well, I am starting to get the airplane ready."

Mr. **Gerard.** That question was asked on the Senate side. I understand what you are driving at now, Mr. Quie. In other words, how soon could we anticipate the reorganization would be completed?

I am not sure I can give you a specific answer today. I think it is important for us to take whatever time is needed. Certainly with education being a large part of our responsibility, I would like to see that reorganization carried out so that it serves education as well as our other responsibilities.

I would hope that somewhere within a year to a year and a half, when you consider the dispersion of this field and the farflung organizational structure that you have to deal with—also I am not convinced that just drawing new boxes and lines is going to really bring about the desired changes that we all want. I think we are going to have to think about an infusion of new blood in some areas.

Mr. **Blouin.** As a spinoff to that same thing, let me amplify our concern about timetables. Back in November when staff went out to different parts of the country and again in February, nearly every time we had been in the field and then come back and communicated with BIA we have talked about cooperative administrative changes, recommendations, and so on. And in every instance it has been said that it will be done administratively and it hasn't been.

I know we have got a new cast of characters. But that in itself bothers me. From a basic Government standpoint I would think that we should be dealing with policies, not people. Policies of law, of the Bureau, shouldn't change so drastically from people to people that you don't recognize them as the same basic law within that. Maybe that is the basic difference between a bureaucrat and a politician. We would like to have some consistency and I suppose from your standpoint you would prefer flexibility. From the standpoint of the people served I think it is an injustice to them to have it fluctuate, to have the situation change drastically just as people change.

We are terribly interested in moving on many of these recommendations. Just as a side point, we know of nothing in our recommendations that would require radical shifts subsequent to the reorganization within the Department, provided that your changes are compatible with those recommendations coming out of the American Indian Policy Review Commission. We have drafted ours with that in mind.

Mr. **Quie.** Let me add to that. You know the difficulty in reorganization, left to their own devices. There has to be somebody putting the heat on, the pressure on. If the President is going to include this as part of his overall total reorganziation, that would be one thing. The pressure would be on. But I gather that is not what we are talking about. We are talking about a reorganization in and of itself.

Mr. **Gerard.** That is correct.

Mr. **Quie.** That is very difficult to do. I would say you would be much better served if some way or other you could tie to our time frame because as far as the chairman and I are concerned, the plan of our committee is that this is going to be part of a comprehensive education package which will possibly be through the House next May and go to the Senate and work out something by July, let's say, in conference.

We aren't going to be in the full detailed reorganization because that has to be done administratively. But there are some basic policy decisions on education that this would be a part of. So I hope you will, through our time frame, give us any advice that is necessary for us to follow our path wisely and then there will be further reorganization in order to make that fit within the agency later on because I will wager you can't get as good an agreement out there in the field with the people served, the young people and their parents.

Mr. **Gerard.** May I respond?

Mr. **Blouin.** Please do.

Mr. **Gerard.** Without buying your recommendations in total, one of the commitments I would be prepared to make today is that we could take your set of recommendations and have our reorganization committee use them as another management tool or set of recommendations that might be considered as we move forward with our reorganization. In this manner you will at least know that they are being given some consideration.

Mr. **Blouin.** Let me respond to that. First of all, this is not recommendations. This is legislation.

Second, as I understand the legislative process, Congress enacts the law and the agencies carry it out.

Mr. **Gerard.** Right.

Mr. **Blouin.** Even within reorganization I would hope the Congress is still involved in the lead, especially when that reorganization involves policy or involves the implementing of that policy. I am not sure we have time to get bogged down in the specific policy execution of the mandate of the law. But I think the law itself ought to carry the lead on that. I think it is a question of where you are coming from.

Congressman Quie has made the point very well that this subcommittee and the overall committee intends to make this whole package—when it is pieced together finalized, refined, and hopefully agreed to by all involved—a major title to the ESEA authorization that will go through next year.

We would very much like a reverse kind of cooperation from BIA. We would like your assistance in helping us make your adjustment to the new laws as easy as possible and your suggestion on how we should change it to comply with the way you are heading. I think we are both on the same track.

The management study recommendations are the basis, as I understand your testimony, of your reorganization plans.

Mr. **Gerard.** Certainly.

Mr. **Blouin.** We are trying, as I said a few minutes ago, to tailor what we are recommending in this legislation to the basics of that study. There is nothing contradictory within it. It may change. We may get off the track if we don't have the right kind of relationship. And I hope we would avoid that.

Mr. Gerard. I certainly understand. And if this bill or something like it is enacted into law and it is going to be our responsibility to carry it out as a matter of policy, I am sure there are some areas in here where we would have to sit down and talk about our fundamental differences.

For example—and I think we might just as well bring this issue out on the table—the question of giving the Office of Indian Education direct line authority is one that has been kicked around in the Bureau for a number of years. I guess my view on that has always been it almost creates a bureau within the Bureau. If the leadership in the Department and the Bureau cannot shape the organization up so that the support services are adequately serving that function as well as some of the other functions within the Bureau, maybe rather than creating a little bureau within the Bureau—and I think that is what this bill almost does—the broader question ought to be addressed of maybe moving it out altogther and looking at an independent Indian education type of organization.

But I think these are the areas where I probably have some policy problems. We would have to address policy issues point by point in our response. I think that is one policy example where I think we would probably have some fundamental differences. We would like to give our reorganization effort an honest try.

Mr. Pressler. If the chairman will yield?

Mr. Blouin. Mr. Pressler.

Mr. Pressler. In that reorganization where is education in your list of priorities for BIA?

Mr. Gerard. I would see education as a very high priority with its occupying almost half of our personnel structure either directly or indirectly and a substantial portion of our budget. Naturally it is a very high priority in terms of service delivery, whether it be direct or under contract.

Mr. Pressler. We in South Dakota have a difficult time resolving a lot of these problems. What directions will the offices like the one in Aberdeen, S. Dak., have? Will they have staff in the area of education to function properly?

Mr. Gerard. What the management study proposes, Mr. Pressler, is that the area offices be closed out and in their place regional service centers developed to increase training and technical assistance and as many authorities as possible be redelegated closer to the field. In other words so that the Bureau agencies have greater decision-making responsibility. Hopefully there would be strengthening of professional program monitoring and evaluation in those regional service centers.

Mr. Pressler. Does Aberdeen have a full staff for education?

Mr. Gerard. I would have to defer to Mr. Demmert.

Mr. Demmert. In terms of most of the area offices we have an Assistant Area Director for Education and in some cases a financial aid officer and not much beyond that. We would have to check that.

Mr. Pressler. I hope there is not a loss of direction during this period of reorganization and that we are not kind of floating for a year or two, whatever time we have here.

But thank you for yielding, Mr. Chairman.

Mr. QUIE. I am glad you did bring out that point. Are you referring to proposals which would take Indian education totally out of Interior, BIA, and put it into the Department of Education? Or are you talking about what we are talking about here, to give line authority just for education as a separate component?

Mr. GERARD. I was speaking to the latter point. But in my view that really creates a small bureau within the Bureau and maybe rather than doing that one ought to just think about moving it out altogether. I think it would create a difficult situation for the nominal head of that organization to try to administer an overall responsibility with one function having straight-line authority.

Mr. QUIE. Looking at it from the point of view of the Indians themselves, I have talked to them about it and practically to a person they come down and say they would sooner have it with BIA than over in HEW. They seem to like the idea that education money is protected by itself. But they always come back to wanting it at BIA. I would be interested in your further detailed remarks on why you don't like separating it out. It seems to me you shouldn't have competition between, say, a jobs program or a building program and education. Education is so important it ought to be by itself. I don't see why it can't be separate. In a way you have some separateness now at Albuquerque.

Mr. GERARD. I think only geographically. If I understand the reason why those people were sent out there originally, they are essentially, a good many of them are still considered part of the headquarters office. Is that correct?

Mr. DEMMERT. Yes. They were placed in the field because of proximity to some of their work.

Mr. QUIE. But they have all the responsibility for education through that office, don't they? Indian Education Research Centers?

Mr. DEMMERT. We have administrative office there under Mr. Zuni's direct responsibility. Then of course we have the education center out there, IERC, which is under my authority and responsibility.

Mr. BLOUIN. Take a better example, the administration authority of BIA has direct line authority, does it not?

Mr. ZUNI. Yes, we have a staff and line operation. The line runs from the Assistant Secretary for Indian Affairs, then through the directors to the superintendents.

Mr. BLOUIN. Why is that? If an administrator is in charge of administration, why by the same logic isn't an educator in charge of education?

Mr. ZUNI. The logic is there. The administrators that we have in line positions are generalists rather than program specialists.

Mr. BLOUIN. But they are administrators.

Mr. ZUNI. Right.

Mr. BLOUIN. It is the same logic that suggests that educators in a general sense be in charge of education generally. Am I missing something?

Mr. GERARD. I guess the main problem—and I hate to belabor it, sir—is fragmenting part of your organization. I would really like to have the opportunity to study this bill and think of it in terms of what we have in mind. We are going to have to respond to that directly. But I have no immediate answer for a number of these questions.

Mr. **Blouin**. We have a few months when BIA can acquaint itself with this specific legislation and additional bills that will be coming in. I don't see any problem with trying to get input.

Mr. **Quie**. If you want to use an analogy, in HEW there was a desire to have RSA a part of SRS. The friction finally reached the point where the Congress legislatively took RSA out of the Office of Human Development.

Mr. **Gerard**. Without making this commitment, I think it would be possible to consider a number of options in restructuring the Bureau within the Department. Given the size of education, I suppose one could conceivably set up a Bureau of Indian Education and have a separate bureau with responsibility, both under the same Assistant Secretary for Policy Development. The same holds true in a couple of other areas.

We don't think we want to rule out any of these alternatives. I am sure we share the same goal. We want to improve the quality of education to the Indian children, be it the Federal or publicly supported school. I think we are on the same track in that regard.

Mr. **Blouin**. Mr. Demmert, have you or any of your people had an opportunity to analyze the draft proposal?

Mr. **Demmert**. I just got the latest printed version today.

Mr. **Blouin**. That is identical to what we sent over about three weeks ago.

Mr. **Demmert**. We did have an opportunity to review the legislation, the advance draft of that legislation you sent to the Bureau and to the field. As I pointed out in my opening testimony, many of the concepts that you address in the legislation are consistent with Indian Policy Review Commission material as well as some of the recommendations we have been working on internally. A short answer to that is, yes, but not in extreme detail.

Mr. **Blouin**. Are you in a position yet where you could make some comment concerning any specifics of that draft in terms of guidance to the subcommittee?

Mr. **Demmert**. One area I think that Mr. Gerard mentioned and primarily for a point of clarification, in your legislation you mentioned line authority for a director. There are two ways to handle it. One is line authority for a director under the Assistant Secretary. The other is line authority for a director outside of that umbrella. We are not sure that it would be appropriate to pull education outside of that umbrella. It is always easier to have a boss for some of the tough decisions that need to be made.

Mr. **Blouin**. I think the bill acknowledges that. I think that whole division is under the Assistant Secretary. It is always nice to have that.

Mr. **Demmert**. The second point is that the bill pulls out many of the administrative services from Mr. Zuni's shop and places it in education. I think Mr. Gerard referred to that as "creating a bureau within a bureau." I don't have an opinion on that. By that I mean I am not sure that I would agree with the intent of the legislation. I would probably tend to support Mr. Gerard's position, that it would be more appropriate to keep it intact especially if administratively that process can be streamlined and made to respond to the director as well as to the Assistant Secretary.

We have had an opportunity to look at the direct funding concept foundation program. My own personal opinion is that that is something that is thoroughly appropriate and timely and we will be forwarding Mr. Gerard some very specific recommendations in that area very soon.

We have an interagency agreement with NIE to help us develop those specific recommendations and the model. We have the general recommendations that we sent for review and comment.

Mr. **Blouin**. Do you see anything in your perusal of this draft that would come into conflict with where you think it ought to be heading in that basic funding? As far as I am concerned that is the real guts of the accomplishment potential of this bill—funding mechanisms.

Mr. **Demmert**. I think the concept is consistent, as I said, with what we are talking about internally. One of the most critical areas in providing the community long-term predictable funding, which a foundation program does, is an opportunity to make decisions within that budget at the community level, to give school boards authority and responsibility to make those decisions and to allow those communities an opportunity to hire teachers directly. That is consistent with my own thinking.

I know I have on occasion talked this over with Mr. Gerard. I don't think we are too far off on that. But he might want to address that personally.

Mr. **Blouin**. Mr. Gerard?

Mr. **Gerard**. I would only say that Mr. Demmert and I have had a long association on Indian education. It is fair to say that we are pretty close on a number of these issues. Trying to implement them and make them a matter of policy is another thing. But I share his concern on that matter of recruitment. I have often been baffled why we haven't figured out some more efficient manner of recruiting and placing teachers in Bureau schools.

Mr. **Blouin**. I sense you are not ready yet to pick a specific solution.

Mr. **Gerard**. We would be very interested in one.

Mr. **Blouin**. The answer is, no, you are not.

Mr. **Demmert**. Let me point out, if we might, that Mr. Gerard and I really haven't had an opportunity to get into the specific detail of many of the concepts that have been expressed, either by the Indian Policy Review Commission or by our study or by your draft legislation. We have, as I pointed out earlier, addressed them conceptually. There isn't that much difference.

The major difference I guess between the Department's position and the draft is the best process for implementing what needs to be done.

Mr. **Blouin**. Let me ask you this. Would it be an achieveable timetable from your perspective if we were to ask you folks to come back toward the end of October for a couple of hours to go over the specifics of this proposal? Would you be any closer to having some firmed-up recommendations or responses or comments on various sections of this bill than now?

Mr. **Gerard**. I think, Mr. Chairman, we would have a better understanding with respect to each of the recommendations. My main problem is I haven't had an opportunity to study——

Mr. **Blouin**. I appreciate that.

Mr. **Gerard**. That would give us time, at least to point out where we have our major differences. This would not be in the way of a formal hearing but a discussion, an oversight type hearing, rather than a formal hearing on the bill itself?

Mr. **Blouin**. It would be a formal hearing on the bill itself.

Mr. **Gerard**. The end of October? Well, if that is the target date, we had better begin work on the report then.

Mr. **Blouin**. Our problem would be that once this place adjourns at the end of October—knock on wood—that it is going to be extremely difficult to pull together membership. It would be easier to get a room at that time. But it would be extremely difficult to get the members to sit down for a couple of in depth meetings.

We would prefer having your specific comments before the January-February hearings. I think the end of October is probably the best shot we have. We do want specific responses.

Mr. **Gerard**. There is one other advantage. By then we should be in a position to report to you on some of the logistics that we have worked out on reorganization. That is a little over a month away. I would hope there would be some headway by that time.

Mr. **Pressler**. If the chairman would yield, how would you strengthen the voice of the tribes in contracting for educational services?

Mr. **Gerard**. I think in a couple of ways, Mr. Pressler. The basic contracting authority is already a matter of law and policy. In my view we need to get right to the point we were talking about earlier, to make certain that those area offices are adequately staffed so that technical training or technical assistance and training can be offered to the tribes so they can facilitate that contract when they want to exercise that option.

This is one of the areas that I am committed to looking into specifically, the implementation of 638.

Mr. **Quie**. Along that line, could you give us an update on how contracting has been going? Up in Alaska they seemed to prefer the BIA-run schools rather than contracting or going to a State system.

A second request I would make of you, I imagine the Indian Policy Review Commission has recommendations on the band laws. Would you give us your views on how the band operation works and sends that to the committee? If you could send a copy to the chairman and myself.

Mr. **Gerard**. We would be happy to follow up on both questions.

[The additional information requested follows:]

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Office of Legislative Liaison
Attn: Ms. Leahy

DATE: DEC 19 1977

FROM : Education Specialist, Office of Indian Education Programs
Through Acting Director, OIEP

SUBJECT: Oversight Hearings, September 26 - Question about Contracting of Schools, Including Alaska, by Representative Quie

Attached is a response to your request on the above. (page 2-32, lines 17-22 of the stenographic transcript)

Education Specialist

Attachment

5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

DEC 19 1977

Contracting of BIA Schools

Presently, the Bureau of Indian Affairs has contractual agreements for the management and operation of thirty-two Indian-controlled schools. It is expected that all of these schools will opt to continue the agreements in Fiscal Year 1979. In addition, it is expected that a number of other schools, some privately operated or operated by Indian organizations, will request contracts with the Bureau through a tribal organization in Fiscal Year 1979.

Although no Alaska BIA school has chosen to contract for the school's operation, some schools have transferred to State operation in previous years. Of the Alaskan schools which transferred to the State, none have officially requested a return to BIA operation.

The trend in tribal contracting for school operation is toward the starting of new tribal schools or the taking over of previously-private schools, rather than contracting for existing BIA schools. It is early yet to evaluate fully the contracting of schools and the transfer of schools to the States. The general mood of the tribal groups and school boards seems to be that they should move cautiously and evaluate their options before making a decision to contract. The Bureau policy continues to be that of informing tribal groups of their options and to avoid applying pressure one way or another.

UNITED STATES GOVERNMENT
# memorandum

DATE: December 13, 1977

REPLY TO ATTN OF: Chief Statistician

SUBJECT: Oversight Hearings, September 26 - Question about Band Analysis by Representative Quie

TO: Office of Legislative, Liaison
Attention: Ms. Leahy

This responds to your telephone request. The attached material consists of a brief description of the band analysis purpose and procedures, plus a copy of the detailed band instructions for Fiscal Year 1979.

Louis W. Conger, Jr 12/13/77

Attachments

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
U.S. Government Printing Office: 1976—241-530/3010

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5010-112

The Band Analysis process was developed by the Bureau of Indian Affairs over the past years with the support and endorsement of the Department and the Office of Management and Budget. Primarily it was developed to help determine tribal priorities in the distribution of limited funds among the various programs at the Agency level and to advance the concept of Indian self-determination by fostering increasing local Indian participation in the program planning decisions of the Bureau and in the management of their own tribal affairs.

Briefly, the Band Analysis system is a unique method of providing the Indians and their leaders with a formal, unified method of identifying their needs in relative degrees of importance on a program-by-program basis. It is a method of indicating what programs are most important to a given tribe and which are of lesser importance.

With the exception of trust or so-called non-discretionary programs and activities that the Bureau is required to carry out at a predetermined level of funding, each Agency is given a listing of all Bureau programs. For each of these programs, the tribes are provided with base figures. These figures represent an estimate of the funds, based on the President's budget that the tribes can expect to receive for each program in the coming year or budget year. The total of these figures will represent the base from which the tribes will then be able to build their proposed programs for the next year or planning year.

The tribes are then asked to develop a distribution of three fixed levels of funds among the programs. These levels are arbitrary and usually set between 90% and 120% of the base total provided. Within these limits the tribe is given the freedom to adjust the figures on a program-by-program basis and to make the changes they want in their program mix to satisfy their needs as they see them. In effect they are establishing the relative importance they place on each program in relation to all other programs.

To more fully support their needs and priorities, the tribes are requested to provide a narrative statement to indicate major impacts of each band level and to indicate the general direction of program changes.

In developing the Bureau-wide budget and program plans the integrity of the tribal input into the process is carefully maintained.

For FY 1978 the Bureau budget is proposed at $1,247 million; of that amount about 30% of the total BIA budget was banded.

With respect to the band analysis system of budgeting, it should first of all be recognized that the BIA, as well as all other Federal Agencies, must live and operate within limited funding resources. Needs always exceed funding availability, and to effectively contend with this situation, we must develop and establish priorities among the various program to work within there budget limitations. The band analysis system in the most viable method of developing these priorities that we have been able to devise.

The band analysis system is not a budget request and it will not, by itself, produce more funds for the BIA. It is simply a tool by which local tribes can indicate their desires within established funding limitations. The band is used as a mechanism to involve tribes in the hard decisions which must be made in order to realize the best use of the limited funds available.

We enclose a set of the detailed band instructions for the 1979 budget. The last few pages show the form which is returned to the Central Office. There is also a film strip provided to explain the Federal budget process, and how the band analysis fits into it.

Enclosures

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : All Area Directors DATE: MAY 20 1977

FROM : Acting Deputy Commissioner of Indian Affairs

SUBJECT: FY 1979 Band Instructions (Bands Due in Central Office July 1, 1977)

The Band Analysis has been successfully incorporated into our budgeting process as a tool for reflecting Indian priorities concerning the majority of local programs. It will help us in one of our major goals--to structure the BIA budget to the maximum extent on a tribe-by-tribe, rather than a program-by- program, basis. You will recall our discussion of this at our recent Area Directors meeting on budget procedures.

We expect that the new zero-base budget process will permit us to keep the banded priorities intact, even though the funding available for bands may subsequently change from the target planning level. Attached are instructions for developing the 1979 Band Analysis.

You will notice that the constrained levels are higher for Agencies than for Area Offices. The purpose is to favor programs that are under direct control of the tribes and that directly serve the reservations..

In keeping with the philosophy that whenever it is reasonable, programs will be put on the band, and in response to our earlier request for proposed changes to the FY 1979 Band, we have also added Tribal Courts, Law Enforcement, and Self-Determination grants to the band analysis, so that the tribes will have input to the funding of these programs.

Off-reservation boarding schools are now shown on separate lines on the band analysis form. Area Directors should make sure that funding is in line with enrollment trends and justifiable unit costs.

For proper planning of 1979, we need to make certain adjustments in the 1978 base because of changes in responsibility, for example, transferring three colleges from Areas to Central Office, transferring schools from the BIA system to public school systems, adjusting for new facilities not covered in the 1978 bands, etc. Each such adjustment is explained in the instructions.

Raymond V. Butler

5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Over the years the BIA has been involving tribal leadership in setting priorities through the band process. In spite of this, the Bureau was criticized in both the House and Senate appropriation hearings for lack of direct Indian involvement in setting priorities. I am determined that each Area Director and Agency Superintendent work closely with Indian leaders to be sure they understand the budgeting process and that they can change Bureau program activities to meet their needs and desires. We must provide whatever information they need so they are fully aware of what they can do.

Attachments:

BAND ANALYSIS INSTRUCTIONS FOR FISCAL YEAR 1979 May 1977

AREA OFFICE INSTRUCTIONS

General. This supplements the basic instructions for Agency. There are three different sets of Agency instructions, depending on the number of tribes.

Planning Assistance. Area and Agency staff are expected to assist tribes as needed in judging their status in different programs, the current outputs of the programs and the outputs at higher and lower levels of funding, so that in establishing priorities the tribes will be informed on the existing status and the potentials for change.

If an Agency is not eligible for a particular program as a matter of BIA policy, the Agency should be advised not to use amounts for these purposes, as they will be wasted.

Preparing Band Forms. The Area Offices will enter the base on the band forms before sending them to the Agencies. Most of column 1 can be entered from the package of 1978 tentatives which has already been sent to Area Office and tribes. Be sure you use the transmittal dated March 2, which gives the budget justifications (President's budget).

Certain changes are necessary, and these are listed for each case on the following sheets.

Banded programs are shown at the back of package, beginning on page 86. Paycosts for these programs are shown as Area totals, which must be distributed to locations and entered in column 2 of the band forms.

New Programs. The 1978 bases for programs new to the band are determined as follows:

1. Tribal Courts and Law Enforcement. The 1978 bases for each Area are given in the enclosed list of adjustments. They will have to be distributed to each location by the Area Office.
2. Self-Determination Grants (excluding Incentive grants). The enclosed list of adjustments shows the amount for each Agency. The computer printout shows the amount for each tribe, as well as the population upon which it is based. These are the new 1975 Revenue Sharing populations, plus adjustments for substantial population adjacent. The amounts differ from previous figures based on the 1973 populations.

Split Programs. Certain programs have been split on the new band forms. This means the Area Office will have to split the 1978 base to fit the new band form. These programs are:

1. Facilities O & M. This is split into Facilities Operations, and Facilities Repair & Maintenance. Each of these is further split into Off Reservation Boarding Schools and All Other Facilities. This makes 4 lines in all (lines 37-40 on the band form).

2. Previously Private Schools (line 09) is included in the 1978 banded amount for School Operations for: Ramah, Crow Creek, St. Michaels, St. Francis, Jamerson, Paschal Sherman, Coeur d'Alene, and Ojibway. After these have been split off, the remaining amount is split further between Off Reservation Boarding Schools (line 02) and Other Schools (line 03).

3. In element 13, All Other Career Development (now known as All Other Continuing Education) may need to be split because Residential Center Training and Vocational Training-Institutional have been shifted out of element 13 into 21 and 22 respectively.

Transfers. If there is a transfer of function and funds, say from the Area Office to an Agency, enter the changes in column 2 and footnote to explain. The adjustments listed on the enclosure also go in column 2.

Total Base. The 3rd column, total base, is merely the sum of the first 2 columns.

Area Director Decision in Case of Disagreement. If tribes disagree about Agency bands, or the Superintendent disagrees with the tribe(s) because essential functions are not covered, or because an unworkable situation results when split bands are consolidated, the Area Director decides on the band to be used in the BIA budget process. See comments on this point in connection with the flow charts.

Following his decision, the Area Director will forward the complete package to the Central Office, indicating clearly the band to use. He will also notify the tribe(s) and Agency of his decision.

Completion of Area Office Band. The band for Area Office funds is to be developed according to the procedure spelled out for Agencies with four or more tribes (except Navajo, which is one band for the whole tribe). The Area Director takes the role of Superintendent in this case, and if disagreements arise the issue is sent to the next higher level -- that is, the Commissioner -- for decision.

The tribes at an Agency may elect to be represented by a delegate for purposes of tribal input to the Area Office band.

It is important that tribal participation in the Area Office band analysis be fully documented so that it can be supported as representing tribal priorities.

Transmitital. Completed forms should be sent on a flow basis to avoid a pile-up on the due date. Send the original, together with the narrative, to the Bureau of Indian Affairs, Assistant Director, Financial Management, Washington, D. C. 20245.

Completed bands are due in Central Office on ~~June 15~~. July 1.

A-4

SUPERINTENDENT'S REPORT OF TRIBAL PARTICIPATION

1. List of tribes not supporting band analysis by signature or tribal resolution (if none, write none and skip to item 6 below):

2. List of tribes submitting alternative band analyses:

3. Superintendent's comments on main differences in alternative bands, failure to reach agreement:

4. If alternative band analyses not available for these tribes, explain (see also 5 below):

5. If Superintendent submits his own alternative band analysis differing from that of the tribe(s) to the Area Director for decision, describe the essential functions that cannot be carried out under the tribal band. In the case of 2 or 3 tribe Agencies, there may be an unworkable Agency total if the tribes prepare separate bands for parts of the Agency. Attach additional justification if necessary.

6. Document meetings scheduled and held to secure input of tribes to the band analysis. Include date and location, tribal representatives invited and attending, reasons for nonparticipation, and additional explanation as needed.

Location____ Area________________

Signature of Superintendent______________________________ Date_______

May 1977

ADJUSTMENTS TO 1978 BANDED AMOUNTS, FOR USE AS BASE IN 1979 BAND ANALYSIS TO BE ENTERED IN COLUMN 2 OF THE 1979 BAND ANALYSIS FORM

(Adjustments required by addition of Tribal Courts, Law Enforcement, and Self-Determination Grants to the 1979 bands, add-ons for new facilities, and transfers of responsibility)

ABERDEEN AREA

Area Total (To be distributed to locations)

Line 09. Previously Private Schools. New funding, or additions to previous funding: St. Michaels (77.7), St. Francis (534.5), Ojibway (161.0), Marty (593.4) +1,366.6

Line 11. Tribal Courts (from 1978 unbanded) +687.0

Line 15. Law Enforcement, including detention (from 1978 unbanded) +3,701.0
Law Enforcement paycost +120.0

Line 17. Self-Determination Grants (from 1978 unbanded).
Details in dollars.
Cheyenne River (204,060), Flandreau (11,850), Fort Berthold (120,200), Devils Lake (96,050), Oglala (309,006), Rosebud (269,14^{0}), Yankton (58,750), Sisseton (147,400), Standing Rock (210,930), Turtle Mountain (232,860), Omaha (64,950), Santee (21,250), Winnebago (69,750), Crow Creek (86,050), Lower Brule (32,700) +1,934.9

Lower Brule

Line 38. Facilities Operations. New Facilities on-line in 1978: Lower Brule school (112.5), Lower Brule cottages and quarters (84.8) +197.3

ALBUQUERQUE AREA

Area Total (To be distributed to locations)

Line 03. School Operations. New facilities on-line in 1978: San Felipe 60.0, San Ildefonso 60.0, Taos 60.0 +180.0

Line 11. Tribal Courts (from 1978 unbanded) +525.0

Line 15. Law Enforcement, including detention (from 1978 unbanded) +2,244.0
Law Enforcement paycost +36.0

Line 17. Self-Dtermination Grants (from 1978 unbanded).
Details in dollars. Amount for each tribe on computer printout.
Southern Pueblos (726,640), Northern Pueblos (241,200), Southern Ute (41,650), Ute Mountain (68,000), Jicarilla (81,700), Mescalero (89,700), Zuni (228,120) +1,477.0
NOTE: Ramah is part of Navajo tribe for Self-Determination grants.

Area Office

Line 02. School Operations - Off reservation Boarding.
Deduction for tansfer of IAIA and SIPI to Central Office -4,369.0

(Albuquerque Area Office, continued)

Line 37. Facilities Operations - Off reservation boarding. Deduction for transfer of IAIA and SIPI to Central Office	-1,460.0
Line 45. Total Banded. Deduction for transfer of Denver Employment Office to Central Office. Deduction to be distributed among programs at the Area Office.	-67.0

Southern Pueblos

Line 03. School Operations. New Facilities on-line in 1978: San Felipe Kindergarten	+60.0
Line 38. Facilities Operations. New facilities on-line in 1978: Jemez school (101.0), San Felipe Kindergarten (3.1)	+104.1

Northern Pueblos

Line 03. School Operations. New facilities on-line in 1978: Taos Kindergarten (60.0), San Ildefonso Kindergarten(60.0)	+120.0
Line 38. Facilities Operations. New facilities on-line in 1978: Taos Kindergarten (3.15), San Ildefonso Kindergarten (3.15)	+6.3

ANADARKO AREA

Area Total (To be distributed to locations)

Line 09. Previously Private Schools. New funding, or additions to previous funding: Hammon	+70.9
Line 17. Self-Determination Grants (from 1978 unbanded) Tribal amounts shown on computer printout. Horton (57,750), Cheyenne-Arapaho (139,960), Anadarko Agency (324,680), Pawnee Agency (121,350), Shawnee Agency (170,950).	+814.7

Area Office

Line 02. School Operations - Off reservation boarding. Deduction for transfer of Haskell to Central Office	-4,834.0
Line 08. Special Education Experience. Deduction for transfer of Haskell to Central Office	-68.0
Line 14. Social Services. SDeduction for transfer of Haskell to Central Office	-21.0
Line 37. Facilities Operations - Off reservation boarding. Deduction for transfer of Haskell to Central Office	-1,254.0

Anadarko Agency

Line 36. Facilities - General. New direct rentals in 1978	+120.0

(Anadarko Area, continued)

Pawnee Agency

Line 36. Facilities - General. New direct rentals in 1978	+54.0

BILLINGS AREA

Area Total (To be distributed to locations)

Line 09. Previously Private Schools. New funding, or additions to previous funding: St. Stephens, Wyo.	+405.5
Line 11. Tribal Courts (from 1978 unbanded)	+201.0
Line 15. Law Enforcement, including detention (from 1978 unbanded)	+2,005.0
Law Enforcement paycost	+42.0
Line 17. Self-Determination Grants (from 1978 unbanded) Details in dollars. Blackfeet (208,170), Crow (158,760), Flathead (140,000), Fort Belknap (82,100), Fort Peck (175,920), Northern Cheyenne (131,400), Arapaho (113,600), Shoshone (96,400), Chippewa-Cree (69,850)	+1,176.2

EASTERN AREA

Area Total (To be distributed to locations)

Line 11. Tribal Courts (from 1978 unbanded)	+31.0
Line 15. Law Enforcement, including detention (from 1978 unbanded)	+234.0
Law Enforcdment paycost	+12.0
Line 17. Self-Determination Grants (from 1978 unbanded) Details in dollars. Tribal amounts on computer printout. New York tribes (424,220), Eastern Cherokee (216,420), Seminole (54,050), Miccosukee (15,900), Chitimacha (11,550), Choctaw (123,160)	+845.3

Area Office

Line 44. All other Administrative Services. Transfer of contracting and grants administration staff from Central Office	+84.0

Chitimacha

Line 38. Facilities Operations. New facilities on-line in 1978: Chitimacha schools (previously allotted 21.1)	+45.0

(Eastern Area continued)

Maine Tribes. New band based on 1978 Supplemental request, not yet passed.

Line 12. Agriculture Extension	+30.0
Line 13. All other Aid to Tribal Government	+40.0
Line 16. Housing	+110.0
Line 22. Vocational Training - Institutions (some of this may belong in line 23, Other Employment Assistance)	+252.0
Line 27. All other Rights Protection	+101.0
Line 28. Real Estate Services (see also note below)	+233.0
Line 29. Financial Trust Services	+57.0
Line 32. Forestry	+171.7
Line 35. Wildlife and Parks	+96.0

NOTE: Above figures omit unbanded amounts for Maine tribes as follows: 30.0 for a GS-13 Real Estate specialist in the Central Office, 70.0 for Scholarships, 119.0 for Indian Contract Support. Grand total, 1,309.7

JUNEAU AREA, Part 1 (See also page 8)

Area Total (To be distributed to locations)

Line 03. School Operations. New facilities on-line in 1977, not shown in 1978 bands: Bethel (Napaskiak85.0, Tuntutuliak 85.0, Chevak 200.0)	+370.0
Line 03. School Operations. New facilities on-line in 1978: Bethel 340.0 (85.0 each at Eek, Mountain Village, Tuluksak, Tununak), Nome 85.0 (St. Michaels)	+425.0
Line 03. School Operations. Deduction for schools transferred in 1977 from BIA to public school systems (based on 1977 funding level): Bethel 777.4 (Emmonak, Hooper Bay, Kalskag, Lower Kalskag), Nome 1,183.1 (Kiana, Kotzebue)	-1,960.5
Line 14. Social Services. Transfers from General Assistance (unbanded) to Social Services Operations, for tribal contracts.in 1977, not shown in 1978 bands: Area Office (33.0), Anchorage (55.2), Bethel (22.0), Fairbanks (149.6), Southeast (13.0)	+272.8
Line 38. Facilities Operations. New facilities on-line in 1977, not shown in 1978 bands: Bethel (Napaskiak 125.0, Tuntutuliak 18.0, Chevak 166.1)	+309.1

(Juneau Area, continued)

Line 38. Facilities Operations. New facilities on-line in 1978: Bethel 44.1 (Alakanuk school 20.7, Kindergartens and quarters at 5.85 each at Eek, Mountain Village, Tuluksak, Tununak), Nome 32.6 (St. Michael school)	+76.7
Line 38. Facilities Operations. Deduction for schools transferred in 1977 from BIA to public school systems (based on 1977 funding levels): Bethel 359.8 (Emmonak, Hooper Bay, Kalskag, Lower Kalskag), Nome 628.7 (Kiana, Kotzebue)	-988.5

The following are add-ons banded by the Area Director from reductions at Mount Edgecumbe as shown in 1978 bands:

Line 13. All other Aid to Tribal Government	+196.4
Line 20. Credit and Financing	+22.6
Line 25. Trust Services - General	+44.8
Line 31. Agriculture	+58.9
Line 41. Executive Direction	+4.0
Line 42. Program Development and Budget	+1.9
Line 44. All other Administrative Services	+259.9

MINNEAPOLIS AREA

Area Total (To be distributed to locations)

Line 09. Previously Private Schools. New funding, or additions to previous funding: Hannahville (186.8), Lac Courte Ofeilles (341.5), Bag-O-Nay_ge-Shig (118.3)	+646.6
Line 11. Tribal Courts (from 1978 unbanded)	+54.0
Line 15. Law Enforcement, including detention (from 1978 unbanded)	+1,050.0
Law Enforcement paycost	+28.0
Line 17. Self-Determination Grants (details in dollars). Tribal amounts shown on computer printout: Minnesota Agency(389,640), Minnesota Sioux (21,250), Great Lakes Agency (395,600), Michigan Agency (122,750), Sac & Fox (29,650), Red Lake (141,560), Menominee (134,000)	+1,234.5

50

MUSKOGEE AREA

Area Total (To be distributed to locations)

Line 17. Self-Determination Grants (details in dollars)
Tribal amounts shown on computer printout.
Miami Agency (56,950), Osage (223,500), Creek (300,966),
Cherokee (353,016), Choctaw (290,180), Seminole (100,000) +1,455.4
Chickasaw (130,760)

NAVAJO AREA

Area Total

Line 03. School Operations. New facilities on-line in 1977,
not shown in 1978 bands: Dennehotso II (64.0), Gray Hills (1,411,0),
Torreon (64.0), Shonto (128.0) +1,667.0

Line 09. Previously Private Schools. New funding, or additions
to previous funding: Kitsillie +100.0

Line 11. Tribal Courts (from 1978 unbanded) +366.0

Line 15. Law Enforcement, including detention, and
including 120.0 for Joint-Use area (from 1978 unbanded) +2,535.0
Law Enforcement paycost +30.0

Line 17. Self-Determination Grants (includes Alamo, Canoncito,
and Ramah) +673.0

Line 38. Facilities Operations. New facilities on-line in 1977,
not shown in 1978 bands: Dennehotso II (7.0),
Gray Hills (21.0), Torreon (3.4), Shonto (6.5) +37.9

Line 38. Facilities Operations. New facilities on-line in 1978:
Torreon Kindergarten and quarters +5.8

PHOENIX AREA

Area Total (To be distributed to locations)

Line 03. School Operations. New facilities on-line in 1977,
not shown in 1978 bands:
Papago 664.0 (San Simone 600.0, Covered Wells 64.0),
Pima 64.0 (Gila Crossing) +728.0

Lines 02 and 03. School Operations. New facilities on-line in 1978:
Fort McDowell K (60.0), Hickiwan K (60.0), Santa Rosa dorm
and Sherman Boarding school (500.0, to be divided)
+620.0

Line 09. Previouslt Private Schools. New funding, or additions
to previous funding: Duckwater, Nevada +28.5

Line 11. Tribal Courts (from 1978 unbanded) +591.0

(Phoenix Area, continued)

Line 15. Law Enforcement, including detention, and including 120.0 for Joint-Use area (from 1978 unbanded) +3,990.0
Law Enforcement paycost +78.0

Line 17 Self-Determination Grants (from 1978 unbanded) Details in dollars. Tribal amounts shown on computer printout. Yavapai-Tonto Payson (4,500), Chemehuevi (400), Colorado River tribe (73,950), Fort Mohave (21,350), Cocopah (24,550), Quechan(45,050), White Mountain Apache (256,780), Papago (283,890), Fort McDowell (17,550), Salt River (115,920), Ak-Chin (15,650), Gila River (245,080), San Carlos (255,640), Western Nevada (181,050), Skull Valley (1,900), Unitah & Ouray (91,400), Eastern Nevada (89,250), Kaibab (5,950), Hopi (233,550), Truxton Canyon (83,200) +2,046.6

Line 38. Facilities Operations. New facilities on-line in 1977, not shown in 1978 bands: Fort McDowell (2.8), Papago 29.8 (San Simone 27.0, Covered Wells 2.8), Pima 2.8(Gila Crossing), San Carlos jail (6.2) +41.6

Line 38. Facilities Operations. New facilities on-line in 1978: Fort McDowell Kindergarten (6.3), Papago 78.8 (Santa Rosa dorm 73.0, Kickiwan 5.8) +85.1

Area Office

Intermountain School and NITC. The 1979 banded amount at all levels must be not less than 7,100.0. For planning 1979, the 1978 banded base is increase by 2,800.0, in lines
02 School Operations - Off reservation boarding, and
37 Facilities Operations - Off reservation Boarding, and
39 Facilities R & M - Off reservation boarding +2,800.0

Line 37. Facilities Operations.- Off reservation boarding. New facilities on-line in 1977, not shown in 1978 bands: Sherman Boarding +111.4

Line 37. Facilities Operations - Off reservation boarding. New facilities on-line in 1978: Sherman Boarding +69.3

PORTLAND AREA

Area Total (To be distributed to locations)

Line 09. Previously Private Schools. New funding, or additions to previous funding: Paschal Sherman (355.4), Coeur d'Alene (49.5), Puyallup (209.9) +614.8

Line 11. Tribal Courts (from 1978 unbaded) +348.0

(Portland Area, continued)

Line 15. Law Enforcement, including detention (from 1978 unbanded). Total for Area is 2,439.0, but 717.0 of this is for Boldt and does not go on the band, leaving a banded total of +1,722.0

Line 15. Law Enforcement paycost +45.0

Line 17. Self-Determination Grants (from 1978 unbaded) Details in dollars. Tribal amounts shown on computer printout. Colville (142,680), Fort Hall (102,800), Northern Idaho (88,050), Umatilla (41,250), Burns Paiute (6,600), Warm Springs (91,250), Western Washington (489,450), Yakima (197,910), Kalispel (5,950), Spokane (52,750) +1,218.7

Western Washington (Boldt funds off the band in 1979)

Line 13. All other Aid to Tribal Government. Figure shown in band table for 1978 is 233.4, but it should be 333.4 Of this 333.4, Boldt funds are 245.0. Deducting this will leave a 1978 base of 88.4 for planning 1979 -245.0

Line 27. All other Rights Protection. Figure shown in band table for 1978 is 1,394.0, which includes 1,292.8 for Boldt. Deducting this leaves a 1978 base of 101.2 for planning 1979. NOTE: There is also an unbanded amount of 1,867.2 in 1978 for Boldt not included in the above figure. -1,292.8

SACRAMENTO AREA

Area Total (To be distributed to locations)

Line 15. Law Enforcement, including detention (for 1978 unbanded) +72.0

Line 17. Self-Determination Grants (from 1978 unbanded) Detail in dollars. Tribal amounts shown on computer printout Central California (177,550), Hoopa tribe (67,700), rest of Hoopa Agency (5,750), Agua Caliente (6,800), Southern California (123,350) +381.2

JUNEAU AREA, Part 2 (See also page 4)
Line 15. Law Enforcement, including detention (from unbanded) +100.0
Line 17. Self-Determination Grants (from 1978 unbanded) Detail in dollars. Village amounts shown on computer printout. Anchorage (460,000), Behtel (635,400), Fairbanks (406,600), Nome (454,000), Southeast (548,770) +2,504.8

B-1

BAND ANALYSIS INSTRUCTIONS FOR FY 1979 FOR AGENCIES WITH ONE TRIBE

May 1977

GENERAL

Purpose. The purpose of the band analysis is to establish local priorities and build them into the BIA budget. It also enables subsequent distribution of appropriated funds according to these priorities. Materials have been provided to explain to tribes in detail how the budget process works, and how the band analysis enables them to get their priorities into the budget.

Tribal decision on priorities is the key to the band analysis. A special form is included for the Superintendent to report on the process and tribal participation.

> General Guidelines. This year the constrained levels enjoy a larger increase at the Agencies than at the Area Offices. The purpose is to favor programs that are under direct control of tribes at the local level.

Constrained levels usually reflect moderate changes in most programs but a drastic reduction, or even elimination, of an ineffective or low priority program is acceptable. On the other hand, a few programs can be reduced but not eliminated entirely. Obviously, the superintendent cannot accept a tribal proposal to eliminate funding for executive direction and administrative services, but that does not mean maintaining the base level, much less reaching a "desirable level." Similarly some funding for plant operations has to be kept where BIA has buildings, and some welfare staff is needed if grants are being administered.

Tribes planning to contract should make sure that sufficient program funds are banded. The overhead cost for Indian Contract Support comes from the Central Office and is not included in the Agency band.

> Zero Base Budgeting. The new budget process is designed to give more choice at top policy levels on the level of funding for various parts of the budget. We anticipate that the priorities expressed in the Agency bands and Area Office bands will be kept intact. However, the total amount available may not be the same as in the target planning level, because this is only a target. The higher and lower levels of the bands enable us to follow your priorities if the amount available for bands shifts up or down from the target level.
>
> The target level correspondes to a level of 110% for the whole BIA.

We also have to supply an "Unconstrained" level, and this results in a new column on the band form. "Unconstrained" does not mean what you might think. Please read the definition in footnote 2 of the band form. Notice that it is more restricted than the "Need" level, defined in footnote 3.

BIA Staffing. We expect that BIA staff will not increase in 1979 and may decrease. Everyone should realize that staff reductions resulting from contracting go into a reserve and are not available for other purposes.

New Responsibilities. Funding for a new school or for other major new responsibilities in FY 1979 will be funded outside the band because there is no base for it in 1978. This does not apply to replacement, normal enrollment increases, and minor changes. Major reductions in responsibilities will by the same reasoning be deducted from the Agency funding.

Tribal Participation. Each band analysis has to reflect tribal decisions if it is to be honored as it passes through the long budget process. Tribal input has to be documented, particularly where disagreements arise between tribes, or between tribes and the BIA.

The term "tribe signs the band analysis" means that the chief, or a designated tribal representative signs, or a tribal resolution approving the band is attached. Where more than one tribe is involved, attach sheets so that each can sign.

In all cases the Superintendent documents tribal participation on the form provided and includes it with the band materials.

Procedure for Agencies with One Tribe

The procedure to be followed in Agencies with one tribe is outlined on the attached flow chart. The following comments are numbered to correspond with the numbers on the chart.

1. The BIA has furnished materials to explain the Federal budget process and the role of the band analysis.

2. The Agency sets the stage for meaningful tribal decisions by explaining what the 1978 funding accomplishes in the various programs on the band, and the accomplishments to be expected with more or less funding in 1979. This may be a good time to complete the "Need" column.

3. The tribe distributes the Agency Target planning allowance among programs, according to tribal priorities. This is the crucial step in the band analysis. The same is done for two other funding levels -- 10% more than the planning allowance and 10% less. These are needed to follow tribal priorities as the total available to the BIA changes. Further instructions for this step are given below.

   The tribe signs its band.

4 and 5. The Superintendent reviews the band to see if essential functions can be carried out. By "essential functions" we mean Agency activities that are required by Federal trust responsibility and operations that the BIA cannot eliminate. Only the unavoidable minimum amount required is essential, not necessarily the previous level of funding.

6. If the Superintendent finds that essential functions are not covered by the tribal band, he negotiates with the tribe to modify its band so that they will be covered.

7 and 9. If the tribe and Superintendent cannot agree on modifications, the Superintendent prepares a recommended band following the tribal band but making the minimum changes required to cover the essential functions.

He sends both bands to the Area Director, together with his report of tribal participation and recommendations.

10. The Area Director reviews the problems, consults with the tribe and Agency as may be fruitful, and decides on a band to be used by the BIA. It may be one of the bands submitted or a new modification, but in all cases it should do minimum violence to the original tribe band.

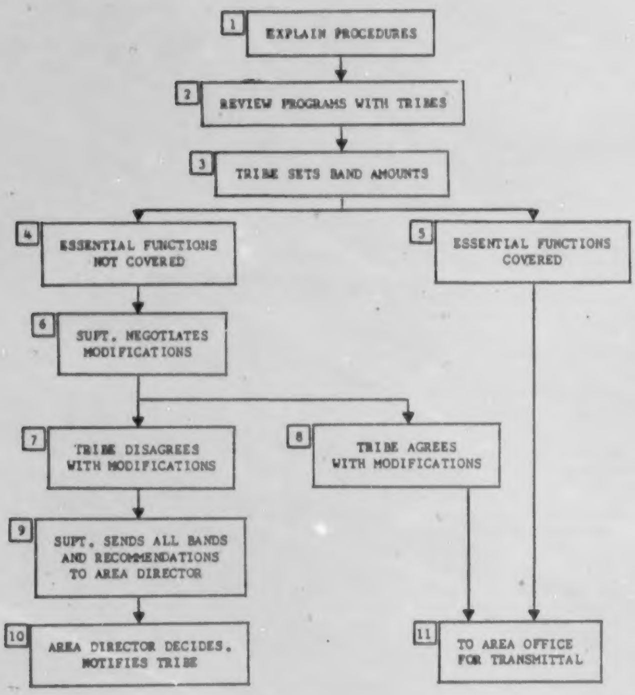
    The Area Director notifies the tribe and Agency of his decision.

11. In this case the band is signed by the tribe and the Superintendent. The Superintendent document tribal participation.

B-5

BAND ANALYSIS FLOW CHART

FOR AGENCIES WITH ONE TRIBE


1 EXPLAIN PROCEDURES
2 REVIEW PROGRAMS WITH TRIBES
3 TRIBE SETS BAND AMOUNTS
4 ESSENTIAL FUNCTIONS NOT COVERED
5 ESSENTIAL FUNCTIONS COVERED
6 SUPT. NEGOTIATES MODIFICATIONS
7 TRIBE DISAGREES WITH MODIFICATIONS
8 TRIBE AGREES WITH MODIFICATIONS
9 SUPT. SENDS ALL BANDS AND RECOMMENDATIONS TO AREA DIRECTOR
10 AREA DIRECTOR DECIDES, NOTIFIES TRIBE
11 TO AREA OFFICE FOR TRANSMITTAL

INSTRUCTIONS FOR COMPLETING THE BAND ANALYSIS FORM

1. The form allows the Agency to show the allocation among programs when the budget is constrained. Note that all dollar amounts are in thousands and tenths--that is, 16.1 means $16,100, and 43.0 means $43,000.
2. The three columns headed 1978 Base show the funding expected from the budget as sent to Congress by the President. These figures cannot be changed for the planning operation, although Congress or subsequent developments may have an impact on them later. The first two columns explain how this total base (column 3) is built up.

3. Figures in the first column of the base are taken from the band analysis sent in last year, plus funds for any major new programs, such as a new school, and similarly reductions for major responsibility shifted elsewhere or abandoned.

   The base for some programs could not be derived from the band because they were not on the band last year -- namely, law and order, and road construction. The base for the tribal courts, law & order, and self-determination grants is the amount expected in 1978 at each location.

4. The second column shows the amount to be added for pay costs, plus any additional adjustments made. The Central Office divides the pay cost incrdase allowance for each program among the Areas; then the Area Office divides its allowance for each program among the Agencies. If the Area Office also plans to transfer some of its Area Office Base funds for a particular program to Agencies, this is the place to show and footnote the amount. The footnote should explain the responsibility and staff, if any, being transferred with the funds. This column is filled out by the Area Office.

5. The Constrained columns are the heart of the band analysis. The target planning amount for the Agency (or tribe) is to be distributed among the various programs on the band. The same for the planning allowance plus 10%, and for the planning allowance less 10%. The reason for three levels is to permit the BIA to follow tribal priorities as the amount available for the band analysis changes.

   If there are BIA policies against establishing a program at a particular location, funds should not be put into that program on the band unless clearance has been received to establish the

program. If a tribe is planning to contract a program, sufficient funds should be banded to cover the program costs. The additional costs of tribal overhead will come from a Central Office fund and do not need to be banded.

NARRATIVE STATEMENT

The BIA needs very brief statements on major impact so that we can explain the effect of various levels of the band. The statements should cover only major impacts, divided into 4 levels of funding:

(1) The major impact of cuts at the -10% level.
(2) The major impact of funding at the target planning level.
(3) The major additional impact in going from the target planning level to the +10% level.
(4) The major additional impact in going from the +10% level to the need level.

"Major impact" means changes of substantial size in the output, staffing, or operations of a program. There is not need to mention minor changes.

If contracting is affected at the various levels of funding, explain in the narrative.

SUPERINTENDENT'S REPORT OF TRIBAL PARTICIPATION

1. List of tribes not supporting band analysis by signature or tribal resolution (if none, write none and skip to item 6 below):

2. List of tribes submitting alternative band analyses:

3. Superintendent's comments on main differences in alternative bands, failure to reach agreement:

4. If alternative band analyses not available for these tribes, explain (see also 5 below):

5. If Superintendent submits his own alternative band analysis differing from that of the tribe(s) to the Area Director for decision, describe the essential functions that cannot be carried out under the tribal band. In the case of 2 or 3 tribe Agencies, there may be an unworkable Agency total if the tribes prepare separate bands for parts of the Agency. Attach additional justification if necessary.

6. Document meetings scheduled and held to secure input of tribes to the band analysis. Include date and location, tribal representatives invited and attending, reasons for nonparticipation, and additional explanation as needed.

Location____ Area________________

Signature of Superintendent______________________________. Date_______

C-1

May 1977

BAND ANALYSIS INSTRUCTIONS FOR FY 1979

FOR AGENCIES WITH TWO OR THREE TRIBES

GENERAL

Purpose. The purpose of the band analysis is to establish local priorities and build them into the BIA budget. It also enables subsequent distribution of appropriated funds according to these priorities. Materials have been provided to explain to tribes in detail how the budget process works, and how the band analysis enables them to get their priorities into the budget.

Tribal decision on priorities is the key to the band analysis. A special form is included for the Superintendent to report on the process and tribal participation.

General Guidelines. This year the constrained levels enjoy a larger increase at the Agencies than at the Area Offices. The purpose is to favor programs that are under direct control of tribes at the local level.

Constrained levels usually reflect moderate changes in most programs but a drastic reduction, or even elimination, of an ineffective or low priority program is acceptable. On the other hand, a few programs can be reduced but not eliminated entirely. Obviously, the superintendent cannot accept a tribal proposal to eliminate funding for executive direction and administrative services, but that does not mean maintaining the base level, much less reaching a "desirable level." Similarly some funding for plant operations has to be kept where BIA has buildings, and some welfare staff is needed if grants are being administered.

Tribes planning to contract should make sure that sufficient program funds are banded. The overhead cost for Indian Contract Support comes from the Central Office and is not included in the Agency band.

Zero Base Budgeting. The new budget process is designed to give more choice at top policy levels on the level of funding for various parts of the budget. We anticipate that the priorities expressed in the Agency bands and Area Office bands will be kept intact. However, the total amount available may not be the same as in the target planning level, because this is only a target. The higher and lower levels of the bands enable us to follow your priorities if the amount available for bands shifts up or down from the target level.

The target level correspondes to a level of 110% for the whole BIA.

We also have to supply an "Unconstrained" level, and this results in a new column on the band form. "Unconstrained" does not mean what you might think. Please read the definition in footnote 2 of the band form. Notice that it is more restricted than the "Need" level, defined in footnote 3.

BIA Staffing. We expect that BIA staff will not increase in 1979 and may decrease. Everyone should realize that staff reductions resulting from contracting go into a reserve and are not available for other purposes.

New Responsibilities. Funding for a new school or for other major new responsibilities in FY 1979 will be funded outside the band because there is no base for it in 1978. This does not apply to replacement, normal enrollment increases, and minor changes. Major reductions in responsibilities will by the same reasoning be deducted from the Agency funding.

Tribal Participation. Each band analysis has to reflect tribal decisions if it is to be honored as it passes through the long budget process. Tribal input has to be documented, particularly where disagreements arise between tribes, or between tribes and the BIA.

The term "tribe signs the band analysis" means that the chief, or a designated tribal representative signs, or a tribal resolution approving the band is attached. Where more than one tribe is involved, attach sheets so that each can sign.

In all cases the Superintendent documents tribal participation on the form provided and includes it with the band materials.

Procedure for Agencies with Two or Three Tribes

The procedure to be followed in Agencies with two or three tribes is outlined on the attached flow chart. The following comments are numbered to correspond with numbers on the chart.

1, 2, and 3. In these Agencies the tribes must be given the option of developing the band analysis in one of two ways. The choice is up to the tribes. The two ways are:

(a) The tribes jointly develop the Agency band as a whole. The left side of the flow chart shows the steps involved.

(b) The Agency target amount is split up among the tribes, and each tribe develops a band analysis for its part of the Agency total. If the resulting consolidated Agency total is workable, the split bands will be kept separate throughout the budget process. The right side of the flow chart shows the steps involved.

If the tribes cannot agree which procedure to use, the Superintendent will have to choose.

In addition to the above issues, the Agency should explain to the tribes the Federal budget process in general and the role of the band analysis. The BIA has furnished materials for this purpose.

4. The Agency sets the stage for meaningful tribal decisions by explaining what the 1978 funding accomplishes in the various programs on the band, and the accomplishments to be expected with more or less funding in 1979. This may be a good time to complete the "Need" column.

5. In case of split bands, the entire 1978 Agency band base is to be split among the tribes, using the guidelines for contract costs (direct funds) developed for Public Law 93-638 (Self-Determination Act). The three constrained levels can then be split among the tribes in the same proportion as the total base is split.

The review of programs (see comment 4 above) is still needed and will be more complex because the accomplishments in some programs will have to be considered as Agency totals.

6. The tribes distribute the AGency target planning allowance among programs, according to tribal priorities. This is the crucial step in the band analysis. The same is done for two other funding levels--10% more than the planning allowance and 10% less. These are needed to follow tribal priorities as the total available to the BIA changes.

Further instructions for this step are given below.

Each tribe signs its own band.

8. If the tribes disagree on a band for the Agency, the Superintendent may be able to negotiate a compromise (this will have to pass the "essential functions covered" test; see steps 11 and 12). If compromise fails, the Superintendent may recommend a band signed by one of the tribes, or be may have to recommend a compromise band of his own which should follow the tribal priorities as far as possible. In any case, he should get a band from each tribe that disagrees so that their priorities will be part of the record reviewed by the Area Director (see step 19)

9. See comment 8 above.

10. Superintendent consolidates the split bands to arrive at the 1979 Agency funding in preparation for steps 13 and 14.

11 & 12. The Superintendent reviews the band to see if essential functions can be carried out. By "essential functions" we mean Agency activities that are required by Federal trust responsibility and operations that the BIA cannot eliminate. Only the unavoidable minimum amount required is essential, not necessarily the previous level of funding.

13 & 14. When split bands are consolidated the Agency total may be unworkable. An example might be one tribe keeping the funding for its half of a housing program and the other tribe wiping it out. This would be workable if the housing officer can spend half his time with one tribe and combine other duties for the rest of his time. If not, a housing officer would have to be kept to provide housing services for the one tribe. However, a consolidated band is not unworkable just because it is inconvenient.

Also, the consolidation may not cover essential functions, as explained in 11 and 12 above.

15. The Superintendent negotiates with the tribes for modifications if he finds that their bands leave essential functions not covered, or that their split bands give an unworkable situation when consolidated.

    If the split band procedure is used, an effort should be made to modify these so that the individual split bands can be kept in the BIA budget system. However, the required modifications may be acceptable to the tribes at the Agency level; in this case the result is a single Agency band signed by the tribes.

16. If one or more of the tribes disagree with necessary modifications, the Superintendent recomends a band, which may be one of the tribal bands or a compromise band of his own; whichever leads to the most tribal acceptance and is closest to tribal proposals.

    He sends the tribal band(s), including the bands of disagreeing tribes and his compromise band(if any), to the Area Director together with his report of tribal participation and recommendations.

17. If the tribes participating in the band analysis all agree to the modified band(s), these replace the original tribal band(s). They are signed by the tribes and the Superintendent, then sent to the Area Office for transmittal to the Central Office.

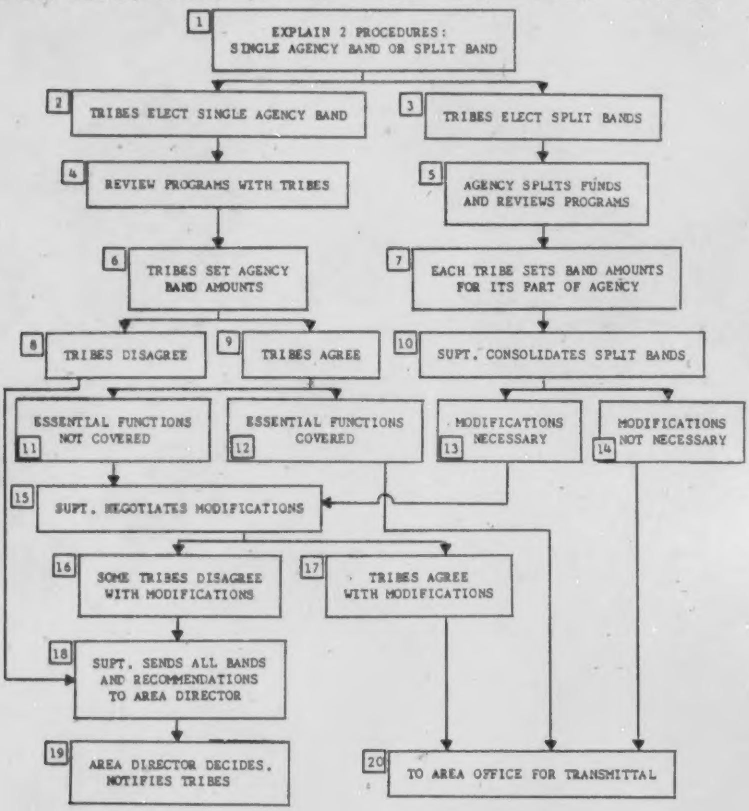
18. See comment 16 above.

19. The Area Director reviews the problems, consults with the tribes and Agency as may be fruitful, and decides on a band to be used by the BIA. It may be one of the bands submitted or a new modification, but in all cases it should do minimum violence to the original tribal band(s).

c-6

BAND ANALYSIS FLOW CHART

FOR AGENCIES WITH TWO OR THREE TRIBES


1 EXPLAIN 2 PROCEDURES: SINGLE AGENCY BAND OR SPLIT BAND
2 TRIBES ELECT SINGLE AGENCY BAND
3 TRIBES ELECT SPLIT BANDS
4 REVIEW PROGRAMS WITH TRIBES
5 AGENCY SPLITS FUNDS AND REVIEWS PROGRAMS
6 TRIBES SET AGENCY BAND AMOUNTS
7 EACH TRIBE SETS BAND AMOUNTS FOR ITS PART OF AGENCY
8 TRIBES DISAGREE
9 TRIBES AGREE
10 SUPT. CONSOLIDATES SPLIT BANDS
11 ESSENTIAL FUNCTIONS NOT COVERED
12 ESSENTIAL FUNCTIONS COVERED
13 MODIFICATIONS NECESSARY
14 MODIFICATIONS NOT NECESSARY
15 SUPT. NEGOTIATES MODIFICATIONS
16 SOME TRIBES DISAGREE WITH MODIFICATIONS
17 TRIBES AGREE WITH MODIFICATIONS
18 SUPT. SENDS ALL BANDS AND RECOMMENDATIONS TO AREA DIRECTOR
19 AREA DIRECTOR DECIDES. NOTIFIES TRIBES
20 TO AREA OFFICE FOR TRANSMITTAL

INSTRUCTIONS FOR COMPLETING THE BAND ANALYSIS FORM

1. The form allows the Agency to show the allocation among programs when the budget is constrained. Note that all dollar amounts are in thousands and tenths--that is, 16.1 means $16,100, and 43.0 means $43,000.
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3. Figures in the first column of the base are taken from the band analysis sent in last year, plus funds for any major new programs, such as a new school, and similarly reductions for major responsibility shifted elsewhere or abandoned.

   The base for some programs could not be derived from the band because they were not on the band last year -- namely, law and order, and road construction. The base for the tribal courts, law & order, and self-determination grants is the amount expected in 1978 at each location.

4. The second column shows the amount to be added for pay costs, plus any additional adjustments made. The Central Office divides the pay cost incrdase allowance for each program among the Areas; then the Area Office divides its allowance for each program among the Agencies. If the Area Office also plans to transfer some of its Area Office Base funds for a particular program to Agencies, this is the place to show and footnote the amount. The footnote should explain the responsibility and staff, if any, being transferred with the funds. This column is filled out by the Area Office.

5. The Constrained columns are the heart of the band analysis. The target planning amount for the Agency (or tribe) is to be distributed among the various programs on the band. The same for the planning allowance plus 10%, and for the planning allowance less 10%. The reason for three levels is to permit the BIA to follow tribal priorities as the amount available for the band analysis changes.

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program. If a tribe is planning to contruct a program, sufficient funds should be banded to cover the program costs. The additional costs of tribal overhead will come from a Central Office fund and do not need to be banded.

NARRATIVE STATEMENT

The BIA needs very brief statements on major impact so that we can explain the effect of various levels of the band. The statements should cover only major impacts, divided into 4 levels of funding:

(1) The major impact of cuts at the -10% level.
(2) The major impact of funding at the target planning level.
(3) The major additional impact in going from the target planning level to the +10% level.
(4) The major additional impact in going from the +10% level to the need level.

"Major impact" means changes of substantial size in the output, staffing, or operations of a program. There is not need to mention minor changes.

If contracting is affected at the various levels of funding, explain in the narrative.

SUPERINTENDENT'S REPORT OF TRIBAL PARTICIPATION

1. List of tribes not supporting band analysis by signature or tribal resolution (if none, write none and skip to item 6 below):

2. List of tribes submitting alternative band analyses:

3. Superintendent's comments on main differences in alternative bands, failure to reach agreement:

4. If alternative band analyses not available for these tribes, explain (see also 5 below):

5. If Superintendent submits his own alternative band analysis differing from that of the tribe(s) to the Area Director for decision, describe the essential functions that cannot be carried out under the tribal band. In the case of 2 or 3 tribe Agencies, there may be an unworkable Agency total if the tribes prepare separate bands for parts of the Agency. Attach additional justification if necessary.

6. Document meetings scheduled and held to secure input of tribes to the band analysis. Include date and location, tribal representatives invited and attending, reasons for nonparticipation, and additional explanation as needed.

Location______________________________ Area____________

Signature of Superintendent______________________ Date______

D-1

BAND ANALYSIS INSTRUCTIONS FOR FY 1979
FOR AGENCIES WITH FOUR OR MORE TRIBES

May 1977

GENERAL

Purpose. The purpose of the band analysis is to establish local priorities and build them into the BIA budget. It also enables subsequent distribution of appropriated funds according to these priorities. Materials have been provided to explain to tribes in detail how the budget process works, and how the band analysis enables them to get their priorities into the budget.

Tribal decision on priorities is the key to the band analysis. A special form is included for the Superintendent to report on the process and tribal participation.

> General Guidelines. This year the constrained levels enjoy a larger increase at the Agencies than at the Area Offices. The purpose is to favor programs that are under direct control of tribes at the local level.

Constrained levels usually reflect moderate changes in most programs but a drastic reduction, or even elimination, of an ineffective or low priority program is acceptable. On the other hand, a few programs can be reduced but not eliminated entirely. Obviously, the superintendent cannot accept a tribal proposal to eliminate funding for executive direction and administrative services, but that does not mean maintaining the base level, much less reaching a "desirable level." Similarly some funding for plant operations has to be kept where BIA has buildings, and some welfare staff is needed if grants are being administered.

Tribes planning to contract should make sure that sufficient program funds are banded. The overhead cost for Indian Contract Support comes from the Central Office and is not included in the Agency band.

> Zero Base Budgeting. The new budget process is designed to give more choice at top policy levels on the level of funding for various parts of the budget. We anticipate that the priorities expressed in the Agency bands and Area Office bands will be kept intact. However, the total amount available may not be the same as in the target planning level, because this is only a target. The higher and lower levels of the bands enable us to follow your priorities if the amount available for bands shifts up or down from the target level.
>
> The target level correspondes to a level of 110% for the whole BIA.

We also have to supply an "Unconstrained" level, and this results in a new column on the band form. "Unconstrained" does not mean what you might think. Please read the definition in footnote 2 of the band form. Notice that it is more restricted than the "Need" level, defined in footnote 3.

BIA Staffing. We expect that BIA staff will not increase in 1979 and may decrease. Everyone should realize that staff reductions resulting from contracting go into a reserve and are not available for other purposes.

New Responsibilities. Funding for a new school or for other major new responsibilities in FY 1979 will be funded outside the band because there is no base for it in 1978. This does not apply to replacement, normal enrollment increases, and minor changes. Major reductions in responsibilities will by the same reasoning be deducted from the Agency funding.

Tribal Participation. Each band analysis has to reflect tribal decisions if it is to be honored as it passes through the long budget process. Tribal input has to be documented, particularly where disagreements arise between tribes, or between tribes and the BIA.

The term "tribe signs the band analysis" means that the chief, or a designated tribal representative signs, or a tribal resolution approving the band is attached. Where more than one tribe is involved, attach sheets so that each can sign.

In all cases the Superintendent documents tribal participation on the form provided and includes it with the band materials.

Procedure for Agencies with four or more tribes.

The procedure to be followed in Agencies with four or more tribes is outlined on the two attached flow charts. The following comments are numbered or lettered to correspond with the boxes on the charts:

A. The purpose of offering tribes an option to use split bands is to allow each tribe to have its individual input to the BIA budget. However, if the split amounts are so small that the tribes have no real leeway for trade-offs among programs the procedure is meaningless.

We are requiring Agencies with two or three tribes to split funds if the tribes choose that procedure, but in Agencies with four or more tribes it may or may not be feasible to split the Agency funding among tribes. If not, it may be possible to split for groups of tribes. The Superintendent will have to decide the feasibility depending on the situation at his Agency.

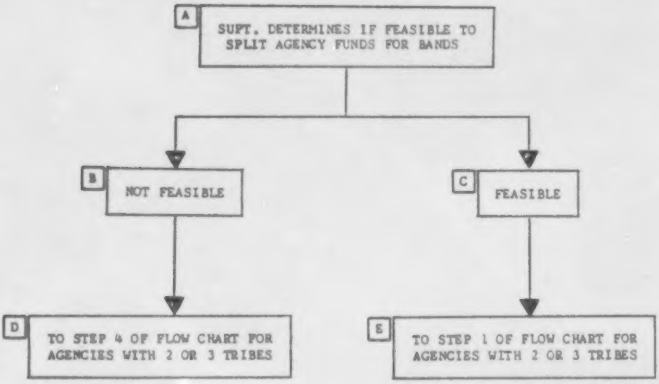
B.&D. If he decides it is not feasible to split funding, the tribes will develop a single band for the whole Agency. The procedure for doing this begins at step 4 of the flow chart for Agencies with two or three tribes, and is on the left side of that chart.

C.&E. If he decides it is feasible to follow the split band procedure for tribes, or groups of tribes, he offers the tribes the choice of a single Agency band procedure or the split band procedure. This begins at step 1 of the flow chart for Agencies with two or three tribes.

D-4

BAND ANALYSIS FLOW CHART

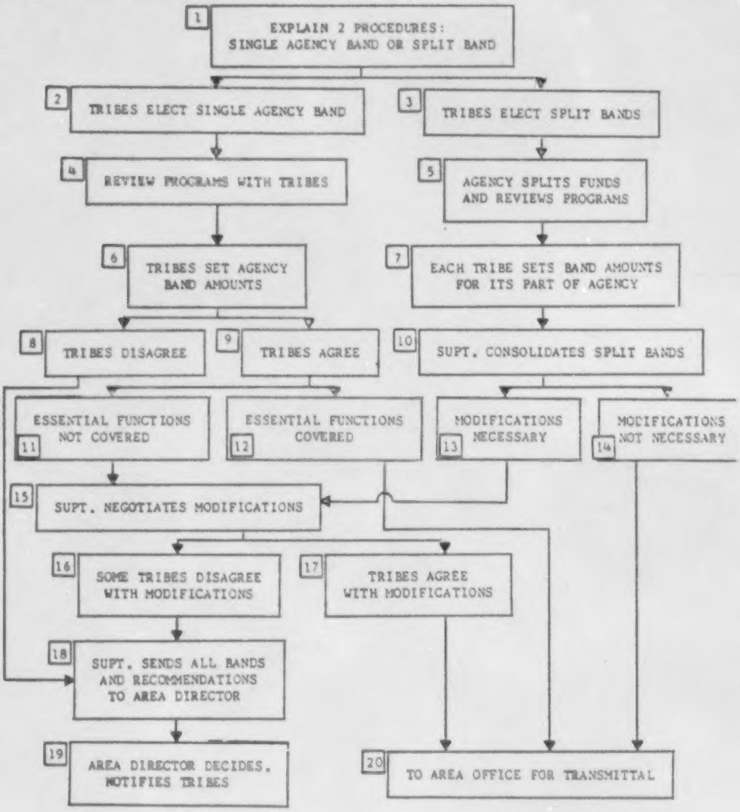
FOR AGENCIES WITH FOUR OR MORE TRIBES


A
SUPT. DETERMINES IF FEASIBLE TO SPLIT AGENCY FUNDS FOR BANDS
B
NOT FEASIBLE
C
FEASIBLE
D
TO STEP 4 OF FLOW CHART FOR AGENCIES WITH 2 OR 3 TRIBES
E
TO STEP 1 OF FLOW CHART FOR AGENCIES WITH 2 OR 3 TRIBES

v-5

BAND ANALYSIS FLOW CHART

FOR AGENCIES WITH TWO OR THREE TRIBES


1
EXPLAIN 2 PROCEDURES: SINGLE AGENCY BAND OR SPLIT BAND
2
TRIBES ELECT SINGLE AGENCY BAND
3
TRIBES ELECT SPLIT BANDS
4
REVIEW PROGRAMS WITH TRIBES
5
AGENCY SPLITS FUNDS AND REVIEWS PROGRAMS
6
TRIBES SET AGENCY BAND AMOUNTS
7
EACH TRIBE SETS BAND AMOUNTS FOR ITS PART OF AGENCY
8
TRIBES DISAGREE
9
TRIBES AGREE
10
SUPT. CONSOLIDATES SPLIT BANDS
11
ESSENTIAL FUNCTIONS NOT COVERED
12
ESSENTIAL FUNCTIONS COVERED
13
MODIFICATIONS NECESSARY
14
MODIFICATIONS NOT NECESSARY
15
SUPT. NEGOTIATES MODIFICATIONS
16
SOME TRIBES DISAGREE WITH MODIFICATIONS
17
TRIBES AGREE WITH MODIFICATIONS
18
SUPT. SENDS ALL BANDS AND RECOMMENDATIONS TO AREA DIRECTOR
19
AREA DIRECTOR DECIDES, NOTIFIES TRIBES
20
TO AREA OFFICE FOR TRANSMITTAL

Procedure for Agencies with Two or Three Tribes

The procedure to be followed in Agencies with two or three tribes is outlined on the attached flow chart. The following comments are numbered to correspond with numbers on the chart.

1, 2, and 3. In these Agencies the tribes must be given the option of developing the band analysis in one of two ways. The choice is up to the tribes. The two ways are:

(a) The tribes jointly develop the Agency band as a whole. The left side of the flow chart shows the steps involved.

(b) The Agency target amount is split up among the tribes, and each tribe develops a band analysis for its part of the Agency total. If the resulting consolidated Agency total is workable, the split bands will be kept separate throughout the budget process. The right side of the flow chart shows the steps involved.

If the tribes cannot agree which procedure to use, the Superintendent will have to choose.

In addition to the above issues, the Agency should explain to the tribes the Federal budget process in general and the role of the band analysis. The BIA has furnished materials for this purpose.

4. The Agency sets the stage for meaningful tribal decisions by explaining what the 1978 funding accomplishes in the various programs on the band, and the accomplishments to be expected with more or less funding in 1979. This may be a good time to complete the "Need" column.

5. In case of split bands, the entire 1978 Agency band base is to be split among the tribes, using the guidelines for contract costs (direct funds) developed for Public Law 93-638 (Self-Determination Act). The three constrained levels can then be split among the tribes in the same proportion as the total base is split.

The review of programs (see comment 4 above) is still needed and will be more complex because the accomplishments in some programs will have to be considered as Agency totals.

6. The tribes distribute the AGency target planning allowance among programs, according to tribal priorities. This is the crucial step in the band analysis. The same is done for two other funding levels--10% more than the planning allowance and 10% less. These are needed to follow tribal priorities as the total available to the BIA changes.

   Further instructions for this step are given below.

   Each tribe signs its own band.

8. If the tribes disagree on a band for the Agency, the Superintendent may be able to negotiate a compromise (this will have to pass the "essential functions covered" test; see steps 11 and 12). If compromise fails, the Superintendent may recommend a band signed by one of the tribes, or he may have to recommend a compromise band of his own which should follow the tribal priorities as far as possible. In any case, he should get a band from each tribe that disagrees so that their priorities will be part of the record reviewed by the Area Director (see step 19)

9. See comment 8 above.

10. Superintendent consolidates the split bands to arrive at the 1979 Agency funding in preparation for steps 13 and 14.

11 & 12. The Superintendent reviews the band to see if essential functions can be carried out. By "essential functions" we mean Agency activities that are required by Federal trust responsibility and operations that the BIA cannot eliminate. Only the unavoidable minimum amount required is essential, not necessarily the previous level of funding.

13 & 14. When split bands are consolidated the Agency total may be unworkable. An example might be one tribe keeping the funding for its half of a housing program and the other tribe wiping it out. This would be workable if the housing officer can spend half his time with one tribe and combine other duties for the rest of his time. If not, a housing officer would have to be kept to provide housing services for the one tribe. However, a consolidated band is not unworkable just because it is inconvenient.

Also, the consolidation may not cover essential functions, as explained in 11 and 12 above.

15. The Superintendent negotiates with the tribes for modifications if he finds that their bands leave essential functions not covered, or that their split bands give an unworkable situation when consolidated.

    If the split band procedure is used, an effort should be made to modify these so that the individual split bands can be kept in the BIA budget system. However, the required modifications may be acceptable to the tribes at the Agency level; in this case the result is a single Agency band signed by the tribes.

16. If one or more of the tribes disagree with necessary modifications, the Superintendent recomends a band, which may be one of the tribal bands or a compromise band of his own; whichever leads to the most tribal acceptance and is closest to tribal proposals.

    He sends the tribal band(s), including the bands of disagreeing tribes and his compromise band(if any), to the Area Director together with his report of tribal participation and recommendations.

17. If the tribes participating in the band analysis all agree to the modified band(s), these replace the original tribal band(s). They are signed by the tribes and the Superintendent, then sent to the Area Office for transmittal to the Central Office.

18. See comment 16 above.

19. The Area Director reviews the problems, consults with the tribes and Agency as may be fruitful, and decides on a band to be used by the BIA. It may be one of the bands submitted or a new modification, but in all cases it should do minimum violence to the original tribal band(s)

INSTRUCTIONS FOR COMPLETING THE BAND ANALYSIS FORM

1. The form allows the Agency to show the allocation among programs when the budget is constrained. Note that all dollar amounts are in thousands and tenths--that is, 16.1 means $16,100, and 43.0 means $43,000.
2. The three columns headed 1978 Base show the funding expected from the budget as sent to Congress by the President. These figures cannot be changed for the planning operation, although Congress or subsequent developments may have an impact on them later. The first two columns explain how this total base (column 3) is built up.

3. Figures in the first column of the base are taken from the band analysis sent in last year, plus funds for any major new programs, such as a new school, and similarly reductions for major responsibility shifted elsewhere or abandoned.

   The base for some programs could not be derived from the band because they were not on the band last year -- namely, law and order, and road construction. The base for the tribal courts, law & order, and self-determination grants is the amount expected in 1978 at each location.

4. The second column shows the amount to be added for pay costs, plus any additional adjustments made. The Central Office divides the pay cost incrdase allowance for each program among the Areas; then the Area Office divides its allowance for each program among the Agencies. If the Area Office also plans to transfer some of its Area Office Base funds for a particular program to Agencies, this is the place to show and footnote the amount. The footnote should explain the responsibility and staff, if any, being transferred with the funds. This column is filled out by the Area Office.

5. The Constrained columns are the heart of the band analysis. The target planning amount for the Agency (or tribe) is to be distributed among the various programs on the band. The same for the planning allowance plus 10%, and for the planning allowance less 10%. The reason for three levels is to permit the BIA to follow tribal priorities as the amount available for the band analysis changes.

   If there are BIA policies against establishing a program at a particular location, funds should not be put into that program on the band unless clearance has been received to establish the

program. If a tribe is planning to contract a program, sufficient funds should be banded to cover the program costs. The additional costs of tribal overhead will come from a Central Office fund and do not need to be banded.

NARRATIVE STATEMENT

The BIA needs very brief statements on major impact so that we can explain the effect of various levels of the band. The statements should cover only major impacts, divided into 4 levels of funding:

(1) The major impact of cuts at the -10% level.
(2) The major impact of funding at the target planning level.
(3) The major additional impact in going from the target planning level to the +10% level.
(4) The major additional impact in going from the +10% level to the need level.

"Major impact" means changes of substantial size in the output, staffing, or operations of a program. There is not need to mention minor changes.

If contracting is affected at the various levels of funding, explain in the narrative.

D-11

SUPERINTENDENT'S REPORT OF TRIBAL PARTICIPATION

1. List of tribes not supporting band analysis by signature or tribal resolution (if none, write none and skip to item 6 below):

2. List of tribes submitting alternative band analyses:

3. Superintendent's comments on main differences in alternative bands, failure to reach agreement:

4. If alternative band analyses not available for these tribes, explain (see also 5 below):

5. If Superintendent submits his own alternative band analysis differing from that of the tribe(s) to the Area Director for decision, describe the essential functions that cannot be carried out under the tribal band. In the case of 2 or 3 tribe Agencies, there may be an unworkable Agency total if the tribes prepare separate bands for parts of the Agency. Attach additional justification if necessary.

6. Document meetings scheduled and held to secure input of tribes to the band analysis. Include date and location, tribal representatives invited and attending, reasons for nonparticipation, and additional explanation as needed.

Location______________________________________ Area________________

Signature of Superintendent______________________________ Date_______

BUREAU OF INDIAN AFFAIRS
BAND ANALYSIS (LOCAL FUNDING PRIORITIES) FISCAL YEAR 1979
(Dollars in thousands and tenths)

Location Name Location Code

Program	Line Code	1978 BASE			1979 Constrained			1979 Uncon-strained 2/	1979 Need 3/
		1978 Band Plus New Programs	Paycost & Tranfers	Total Base	LOWER 1/	TARGET 1/	HIGHER 1/		
Education and Training-General	01-1000								
School Operations-Off res. boarding	02-1100								
School Operations-All other	03-1100								
Direct Instruction	04-1361								
Informal Learning	05-1362								
Higher Education Institutional Assistance	06-1398								
All Other Continuing Education	07-1399								
Special Education Experiences	08-1400								
Previously Private Schools	09-1700								
Community Services-General	10-2000								
Tribal Courts	11-2165								
Agricultural Extension Service	12-2168								
All other Aid to Tribal Gov't. (Excludes 2121 Comprehensive Planning)	13-2199								
Social Services (Excludes 2261-2265, grants)	14-2200								
Law Enforcement	15-2300								
Housing	16-2400								

Location Name

Location Code

	Line Code	1978 BASE			1979 Constrained			1979 Uncon-strained 2/	1979 Need 3/
		1978 Band Plus New Programs	Paycost & Transfers	Total Base	LOWER 1/	TARGET 1/	HIGHER 1/		
Self-Determination Grants 4/ (Excludes incentive amounts)	17-2661								
Commercial Development-General	18-3100								
Commercial Enterprise Development (Excludes 3132 IBCP)	19-3100								
Credit and Financing (Excludes 3262, 3263, 3264, 3269)	20-3200								
Residential Center Training	21-3364								
Vocational Training-Institutions	22-3365								
Other Employment Assistance (Excludes 3362, OJT and 3363, IAT)	23-3399								
Road Maintenance (includes Airstrips)	24-3500								
Trust Services-General	25-4000								
Environmental Quality Services	26-4122								
All Other Rights Protection	27-4199								
Real Estate Services (Excludes 4211 Boundary Surveys)	28-4200								
Financial Trust Services	29-4300								
Natural Resources-General	30-5000								
Agriculture	31-5100								
Forestry (Excludes Congressional add-on)	32-5200								
Minerals & Mining	33-5300								
Water Resources	34-5400								

Location Name   Location Code

	Line Code	1978 BASE			1979 Constrained			1979 Uncon-strained 2/	1979 Need 3/
		1978 Band Plus New Programs	Paycost & Transfers	Total Base	LOWER 1/	TARGET 1/	HIGHER 1/		
Wildlife and Parks	35-5700								
Facilities-General	36-6000								
Facilities Ops.-Off. res. boarding	37-6400								
Facilities Ops.-All other	38-6400								
Facilities R & M-Off res boarding	39-6500								
Facilities R & M-All other	40-6500								
Executive Direction	41-7100								
Program Development and Budget	42-7261								
Safety Management Services	43-7271								
All Other Administrative Services	44-7299								
TOTAL, ABOVE	45-0000								

1/ Line 45 for Lower, Target, and Higher Constrained levels are: For Agencies - 103%, 113%, 123% of 1978 Total Base. For Area Offices - 95%, 105%, 115%. For the Navajo Area - 101%, 111%, 121%.

2/ "Unconstrained" means modest increases over the Target level for those few activities or programs which could achieve relatively high and rapid payoffs at the margin. It could total less than the "Higher" level.

3/ "Need" means a feasible amount that could be effectively spent during 1979.

Signature of Agency Superintendent or Area Director   Date

Signature of Tribal Chairman or Appropriate Tribal Official(s) (add sheets if necessary)   Date

Mr. **Blouin**. Good. Anyone else? Mr. Pressler?

Mr. **Pressler**. No.

Mr. **Quie**. One other question. Who is going to chair that new task force on reorganization? You said you aren't going to do it. You are going to appoint a special assistant to the Under Secretary. Is that the person?

Mr. **Gerard**. He will be handling the staff work essentially. So there is the assurance there will be day-to-day work underway.

Mr. **Quie**. Who is going to chair that task force?

Mr. **Gerard**. The Under Secretary and I will be the two principals involved. But the day-to-day work will be handled by that special assistant to the Under Secretary.

Mr. **Quie**. Sounds like a troika to me.

Mr. **Gerard**. We believe in good staff work.

Mr. **Blouin**. Thank you. We will see you at the end of October.

The subcommittee will adjourn until Wednesday and Thursday with BIA field people at which point I hope we will get their personal feelings, realizing that they will not be BIA official positions at that point.

Thank you.

[Whereupon, at 2:25 p.m. the subcommittee adjourned, to reconvene Wednesday, September 28, 1977.]

INDIAN EDUCATION—OVERSIGHT

Part III: Bureau of Indian Affairs—Reorganization

WEDNESDAY, SEPTEMBER 28, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 1 p.m., in room 2261 of the Rayburn House Office Building, Hon. Michael T. Blouin, presiding.

Members present: Representatives Blouin, Mottl, Quie, and Pressler.

Staff present: Alan Lovesee, counsel, John Forkenbrock, staff director, Jeff McFarland, majority staff, Christopher Cross, minority educational consultant, and Jennifer Wysong, minority research assistant.

Mr. BLOUIN. The subcommittee will be in order.

The Subcommittee on Elementary, Secondary, and Vocational Education, in conjunction with the Advisory Study Group on Indian Education, is conducting its fifth day of oversight hearings on Indian education.

Today we will have a continuation of the discussion on H.R. 9157, with regard to the reorganization of the Bureau of Indian Affairs. Participating in today's hearings are representatives from the BIA area and agency offices.

We are pleased to have four witnesses here who will present their views on this bill. It must be noted that the statements are personal in content, and that the views presented today have not been cleared by the Bureau of Indian Affairs. Therefore, they do not necessarily reflect BIA policy.

We thank these people for coming and providing us input with regard to effecting change and the reorganization effort. We have two witnesses who are not present today. Mr. Clarence Antioquia will not be here. We sympathize with the distance to travel from Alaska. Mr. Antioquia has just left Washington, and to make the long trip back, from our personal experience, is a long haul. This, therefore, precludes him from being here today.

He has, however, submitted written testimony for inclusion in the record, and has agreed to respond to questions submitted to him.

Monday, Mr. Saumaunt's office informed us that they could not provide travel funds for this, and we regret his absence as well. We will forward questions to be answered in written form which along with his written statement will, then, be submitted for the record.

Presently, a crucial but unscheduled conference committee on the school lunch program is going on. For this reason, many members will not be able to participate in the hearing this afternoon. However, be assured that all the members of the overall subcommittee have copies of the written testimony, and will have access to the oral testimony.

We would like to split our witnesses into two panels today. Our first panel will consist of Mr. Harley Zephier, the area director of Aberdeen, S. Dak.; and Mr. Roy Sorenson, assistant area director of education, Phoenix, Ariz.

If you would both come to the witness table. We have your statements in toto. If there is no objection, they will both be submitted for the record in their complete context, and we would ask that you summarize your statements in any way you wish. It makes little difference, Mr. Sorenson and Mr. Zephier, which one of you starts.

[The statements of Mr. Zephier and Mr. Sorenson follow:]

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO

REORGANIZATION OF THE BUREAU OF INDIAN AFFAIRS

As Director of the Aberdeen Area, Bureau of Indian Affairs, it has been my philosophy and policy that the role of the Area Office had to change. Since I became Director, my primary goal has been to move from the traditional program direction to one of developing staff ability to provide the tribal governments and their memberships, through the Agency management system, with technical and management assistance and training in implementing the congressional intent as provided in Public Law 93-638, the Indian Self Determination and Education Assistance Act. I have worked toward this goal by directing extensive management review studies at the Area level and at a few Agencies in an effort to maximize manpower and resource utilization to strengthen the Bureau's ability to respond to tribal and Bureau business in relation to P.L. 93-638 in order to strengthen authority and responsibility at the local level. I implemented in 1975 a Management by Objectives concept in an effort to develop the ability of Area and Agency management staff to direct their technical abilities toward assisting tribal governments and their memberships to reach goals as defined by such tribal entities. The objectives which are developed by each Agency with tribal government input are the planning

CONSERVE
AMERICA'S
ENERGY

tool the Area staff utilizes to improve the delivery of services to the Indian communities. Quarterly Management/Budget Reviews were established and implemented two years ago. Agency managers, tribal officials and Area Office managers participate fully in these reviews. Each Agency Superintendent is responsible for his/her budget and is held accountable for the obligations. These reviews have stimulated tribal participation and have created an intensive interest in the band analysis process and the prioritizing process as well. This also provides an evaluation tool which is essential in any organization.

I am convinced that the above changes were essential but are only a beginning in a much needed reorganization of the Bureau. While the passage of P.L. 93-638 and the current band analysis process has had a definite impact upon the manner in which the Bureau staff interact with tribal governments, there is much left to be accomplished before tribal governments and their memberships will accept and implement the options available to them.

Whether technical assistance centers be Central, Regional or Area is of little consequence. The primary concern must be an organization capable of providing comprehensive service through an efficient organization that must protect and enhance Indian trust resources and tribal self-government. Of equal concern must be acceptance by tribal governments and their memberships. Tribal expression of dissatisfaction stems from lack of communications, outdated constitutions and by-laws, time delays in routine business, poor attitudes of Bureau employees, and lack of a stable economy, to mention a few.

I agree that with a well thought out and tribally accepted reorganization of the Bureau that a better delivery system must be effected so that tribal governments will become fully operational and exercise their powers accordingly.

The Area-wide objectives for FY 1977 are: effective communications; application of sound management principles at Agency/Area levels; Quarterly Management/Budget Reviews and training of Area, Agency, and Tribal Governments on P.L. 93-638.

PREPARED STATEMENT BY RAY SORENSON TO THE ELEMENTARY, SECONDARY, AND VOCATIONAL SUBCOMMITTEE OF THE COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES, SEPTEMBER 28, 1977

Honorable Carl D. Perkins
Chairman, Committee on Education and Labor
House of Representatives

Dear Mr. Chairman:

This is in reply to your invitation that I testify before your committee concerning the reorganization of the Bureau of Indian Affairs Education Department and oversight on the B.I.A.

The first 15 pages of this testimony is a brief historical review of what has happened in Indian education to date. It is imperative that anyone making decisions concerning the education of Indian people be aware of the complexities involved in the management of education programs for federally recognized tribes.

The Indian Self Determination Act, P.L. 93-638 authorizes each tribe to design educational programs that will meet their needs and directs the Bureau of Indian Affairs to provide the necessary assistance in accomplishing the tribe's educational goals.

Despite nearly a century of existence, off-reservation Indian boarding schools have failed to equip Indian students with the skills necessary to continue lifetime learning and to deal with two very different cultures, the tribal and the "mainstream white society."

Since there are so many sectors to culture and since any one sector could alone be effected, and could revolutionize all the other deep-seated aspects of culture, we can, therefore, only smile at the lack of cross-cultured understanding offered by those whose pedogogy is designed within a single culture.

Some have advocated the complete abolishment of boarding schools. While this might be a long-term future objective, boarding schools currently serve a function which, with some improvement, can be useful to the Indian people they serve. Day school attendance is impractical for many Indian children for geographic and social reasons. Families often depend on the food and housing which boarding schools supply. Other families cannot provide stable social-emotional environment for the child and the schools are the only alternative. Education in academic, personal, social, and health skills are needed for these young people to meet the demands of a complex, multi-cultural society. While boarding schools have only minimally met these needs in the past, their potential has yet to be developed. Assimilation has not been successful through the boarding schools and should not be a goal. A transcultural approach is called for. It should be possible for Indian students to learn the skills and knowledge of one culture while integrating with and building on the tribal skills and knowledge.

The failures of the past make it difficult to gain the respect of the Indian people. Boarding schools have for decades been noticeably unsuccessful in providing for the adequate social, emotional and intellectural growth of their charges, especially those that have learning disabilities. This failure of the school is all the more tragic because the boarding high school is often the last contact the students will have with formal education and for many it will determine and/or severely limit their future opportunities. This valuable commodity, the potential of each student, is being squandered and it is a cause for alarm and immediate action making it expedient to place the Comprehensive Educational Programs at the top of the list of our nation's domestic priorities.

The following history of the off-reservation boarding schools gives a background for understanding the current situation and what innovative programs might be developed and implemented. The following covers the period of assimilation when the schools were founded, up to present planning in the schools. There has been a swing from, to, and again away from policies of assimilation. Perhaps those who learn from history will not be doomed to repeat it.

Background

a. A History of Off-Reservation Indian Boarding Schools

Founding

After the Civil War, American attitudes toward "the Indian problem" slowly changed from the desire for physical extermination to the desire for assimilation. Reformers, enlightened by the publicized accounts of white injustice in dealing with Indians, pushed the government for a new policy. It was more or less agreed that it would be best to wipe out all tribal ties and incorporate the Indian into white society.

In 1865, a congressional committee investigating conditions among the western tribes recommended "boarding schools remote from the Indian communities" where stress would be placed on agricultural pursuits. President Grant's stated goal was "the civilization and the ultimate citizenship" of Indians.

One man who saw the desirability of assimilation through education was General Richard Henry Pratt. After a stint jailing Kiowa and Comanche prisoners in Florida, Pratt realized the good results which kindness and vocational training brought. Through his efforts, the first off-reservation boarding school was founded in 1879 and located in an abandoned Army barracks in Carlisle, Pennsylvania.

Using the "melting pot" experience of many immigrant groups as an example, Pratt made obvious his intentions of assimilation. "Feed the Indians to America. America will do the Assimilating and annihilate the Indian problem," he said. "Kill the Indian and save the man." (Burnette, 1974)

Pratt's prejudices were cultural rather than racial. He rejected all notions of inborn racial inferiority. To Pratt, the problem was to strip the Indian of his Indianness and to replace this with a new set of religious and social attitudes and skills in harmony with the larger society. Perhaps it was this lack of belief in inferiority and his high expectations of the capacity of the students which earned him the respect of many Indians.

Carlisle Indian School was essentially a grammer school with a vocational emphasis. Pratt did not want to see Indians held for long in an all-Indian school as it perpetrated cohesiveness and Indianness. The curriculum was aimed at providing the flexibility to either go on with school or enter the American work force directly.

To promote "Americanization," Pratt held several firm convictions. Only English was to be spoken. Christianity was the only religion to be practiced. English songs were sung; white clothing was worn. Pratt's assistants duly photographed the Indian recruits wearing tribal dress and cast-off clothing. A year later they were again pictured, this time with hair cut and combed and stiff uniforms on. One innovative program was the "outing" system. Students completing school were placed for three years with a local white family, a practice which Pratt termed the "right arm" of the school and the supreme Americanizer.

b. Early Years. In 1882, Congress acknowledged Carlisle's success and passed a major funding bill which established seven other boarding schools. Those founding these schools looked to Carlisle for guidance and immediately assumed that the military aspect was advantageous. It was accepted that the students could only be handled under the strictest of discipline. Off-reservation boarding schools became the entrenched form of federal Indian schooling during the assimilation period.

As an added impetus to assimilation, the Allotment (Dawes) Act was passed. Proceeds from the destruction of the Indian land base were to be used to pay the costs of taking Indian children from their homes and placing them in federal boarding schools. Many families resisted.

It wasn't long before critics attacked the boarding schools. Several reasons were cited. They were costly and there was resistance to Federal responsibility for Indian welfare. The goal of assimilation wasn't being met, either. Too few youths were being trained. Only one out of eight entering Carlisle graduated. The danger of the Indians "returning to the blanket" and re-adopting tribal ways was all too real to these critics.

Change came and the new move at the turn of the century was to reservation day schools. Yet the boarding schools held their own. Some new directions came with the new Commissioner of Indian Affairs of 1905, Francis Leupp, who said, (Hertzberg, 1971):

> "I like the Indian for what is Indian in him. Let us not make the mistake, in the process of absorbing them, of washing out whatever is distinctly Indian. Our aboriginal brother brings, as his contribution to the common store of character, a great deal which is admirable, and which only needs to be developed along the right line. Our proper work is improvement, not transformation."

As a result, the boarding schools added Indian arts and Indian history to the curriculum which emphasized military discipline and industrial training.

During the 1920's two trends were seen. The first was the neglect of funding of the boarding schools. In trying to comply with the newly created and unyielding Bureau of the Budget, even minimum standards for food and health care were not met. The second trend was of growing criticism and study of the boarding schools. They were attacked on nearly every front but primarily at the failure to meet basic physical needs of the children and young adults in the schools.

Because of the lack of Federal support of the schools, they were forced to depend largely on the labor of their students. To some extent the tasks were realistic in preparing the students for entry into the work force, but the amount of time and energy involved seriously endangered their health and studies.

Overcrowding was estimated at almost 40%, a situation which exacerbated epidemics such as tuberculosis and trachoma.

Diet, as reported by a Red Cross investigator, was equivalent to slow starvation. Kept 18% below accepted minimums of expenditure, the amount should have been four times as much to meet nutritionists' recommendations for keeping the children healthy and vigorous.

c. Meriam Report and the Indian New Deal. Criticism rose to a crescendo and finally resulted in the Secretary of the Interior contracting a study from the Brookings Institution. Their report is commonly known as the Meriam Report, presented in 1928. The boarding schools were attacked as the epitome of the evils of Indian Education. Summarized, the report stated "frankly and unequivocally" that "provisions for the care of the Indian children in boarding schools are grossly inadequate." (Meriam, 1928)

The report found about the same problems as several other studies of this period, but it made some recommendations which could be implemented. "The most fundamental need in Indian Education," said the report, "is the change in point of view." It argued for individualistic, non-authoritarian, decentralized education in which the focus would be on the whole child and his relationship to his family and community. The prime responsibility of the Bureau, it continued, was education.

During the transitional period between the Report and FDR's election, some improvements were made. A new budget was approved after considerable debate. Child labor was reduced. Harsh discipline was discouraged, a mandate which was not always followed by the superintendents of the schools themselves. Indeed, the prime problem of this period, and one which remains today, was with the "Old Guard" employees whose ways could not be changed by a simple directive. A move to improve the situation came when the various field divisions were named, putting a professional educator at the head of the Division of Education and hiring professionals wherever possible. The lower echelons already employed remained unchanged. Yet the new Education Director was able to begin implementation of the Meriam Report recommendations.

The boarding schools were not to be closed entirely. If they had been, many of the children on remote reservations would have received no education. They had become a tradition in Indian families who supported them. Also, the schools improved the economy of the areas where they were placed. But a gradual phasing out of most of the schools was begun. They were replaced by or converted to reservation day schools where younger children could remain closer to their families. Fifteen percent of the boarding schools were closed.

The school curriculum came under attack next. A Uniform Course of Study had been used up until then, so that every student could "study the same thing at the same time." This regimentation was not meeting the needs of the varied backgrounds and futures of the Indian students. "Irrelevant" courses such as algebra, classics and English literature were cut out. Vocational training was altered to meet the job market of the Depression, one where industrial occupations were scarce and agriculture was most stable. Realizing that most of the students would return to the reservation, an attempt to meet the particular education needs of each tribe was made. The duty of the schools, as the Meriam Report had suggested, was to provide the youth with tools to adapt to two worlds.

The election of FDR meant the reversal of the policy of assimilation, at least until the war. In keeping with this, a stab at cross-cultural education was made. Three areas were introduced into the course of study: Indian history, art and language. In addition, no interference in the expression of Indian religion was to be made. Two problems in implementing Indian studies became apparent: a resistance to acceptance by the school staffs and lack of resources. There were few bilingual books, virtually none of the teachers could speak Indian languages or wanted to, and there was very little information on Indian culture or history. Few Indians were employed even to assist the teachers. Meeting the Indians' peculiar cultural needs from a non-assimilation angle got off to a slow start.

The need for Indian studies was apparent to the students. When Indian history courses were offered at one boarding school, over 300 students immediately signed up. The polarity between Indian and White cultural values was so great that the shock of boarding schools made it difficult for the student to retain the tribal view without occasional reinforcement. The entering student was overwhelmed by the exclusive usage of not only a language he did not understand, but also by the cultural values implied by that language. No one bothered teaching English systematically; it was expected that constant exposure would be enough. As a result, few students gained real expertise in English. After years of the complete but non-systematic inculcation in white culture at the boarding schools, it was often difficult to return to the reservation and relate the two experiences. The students were not offered the security that comes from simply knowing who one is.

The Director of Education attempted to tackle the deficiencies in the Bureau's resources. Despite the lack of written Indian languages, bilingual texts were written; they were few, but it was a beginning. One of the earliest bilingual training programs in the country developed a method for Anglo teachers to teach English as a second language. Indians were encouraged to become teachers and apprenticeships were awarded.

The funding of the Bureau during those Depression years was inadequate and consistently falling. The labor of the students continued to be one of the main supports of the boarding schools. More attempts were made to provide productive industries which would both bring needed commodities and teach skills useful on the reservations. Emergency funding projects provided most of the money for innovative programs.

Other policies relaxed during the late thirties. A former Santa Fe boarding school student recalled that the school was "more tolerable," that there was more social life and that the students were allowed to occasionally leave the campus and go into town to shop. Instead of gloomy, institutional dormitories, some cottages were built; but the budget discouraged this practice. (Burnette, 1974)

d. The War and Termination: Assimilation Period. If the budget of the thirties was tight, the war year's budget was even more so. Needed repairs were not made and several schools deteriorated until they had to be abandoned. Day schools were retained for as long as possible at the urging of Indian parents. The overall enrollment in boarding schools decreased during the war; both students and staff enlisted in the armed forces and others were attracted to well-paying jobs which supported the war effort. Soon the budget and staffing as well as policy curtailed the role of boarding schools to the pre-Meriam report era.

Perhaps it was the country's mood of unification for fighting the war, but in any case there was a growing trend back toward assimilation. To be sure, this was seen as a proper though paternalistic gesture. In 1944, the House Select Committee to Investigate Indian Affairs and Conditions deplored day schools because of their proximity to the tribe. These children, they claimed, suffered the "handicap of having to spend their out-of-school hours in teepees, in shacks with dirt floors and no windows, in tents, in wickiups, in hogans where English is never spoken and where there is sometimes an active antagonism or an abysmal indifference to the virtues of education." If these young children were going to "progress" toward acceptance and appreciation of the "white man's way of life," the report continued, they should attend off-reservation boarding schools. (Szasz, 1974). De-Indianizing the Indian was once again in vogue.

The statement that there was an active antagonism to the idea of education in general among the Indians was just not true. A number of tribal councils passed compulsory education ordinances even before the war was over and others began to enforce similar regulations that they had neglected. Many tribes began to encourage high school graduates to go on to college by setting aside tribal funds for scholarships. What they were antagonistic toward was the lack of input which they had into government policies. They preferred day schools close to home while Congress supported boarding schools.

Similar to the Allotment Act which accompanied early 20th Century assimilation, termination of tribes was supported by Congress during the Eisenhower administration. What made it an incomplete circle was that now the BIA was a little reluctant to go along with all of the termination schemes, though it did nothing to stop the initiation of the idea. Nor did reformers support termination. Finally, Indians were becoming united in their fight against this government policy. Termination was the epitome of the assimilation policy which the schools reflected.

Vocational training was still the main thrust of the boarding schools, though the jobs now prepared for were in urban communities. Industrial vocations taught during the war were continued. The Director of Education who was so supportive of cross-cultural education during the thirties now changed his tune to the time, saying that the schools were a vehicle for cultural change and that "whatever the child learns within the home is contrary to the thing he needs to know rather than helpful." (Szasz, 1974)

The number of "problem children" grew during the postwar years, as reported by school superintendents. As war jobs ended, families became mobile and often broke up. For many Indians, serving in the services or working in war industries gave them their first glimpse of white society at work. What new perspectives and problems this glimpse caused both individuals and tribes can only be guessed at by observers. It is unclear why so many "problem children" turned up at boarding schools. During the thirties a special school for these children had been discussed. Now, the Bureau education leaders were unable to cope with the ramifications of the situation. These students needed special counseling or a special school, but neither was forthcoming.

A move which was to limit the power of the Education Director was to transfer authority from the field offices concerned with integral phases of Indian affairs, such as education, to Area Offices which were answerable only to the Commissioner. This had an effect on the carry-through of educational and policy directives to the boarding schools.

Enrollment in the boarding schools increased through the sixties. In 1961, construction appropriations began the job of repairing and building new schools. More students were being sent to school due to the population increase of "war babies", but also a greater percentage went to school.

Though the curriculum was supposed to make it possible, many boarding school students chose vocational training instead of college. Some students were able to begin this training before graduation by attending one of the schools that continued to emphasize this type of curriculum, for one of the new programs was to transfer the burden of vocational education to a few selected boarding schools.

The students wishing to go to college often found that their boarding school training was not competitive with other U.S. high schools. The Bureau attempted to give remedial help during summer school sessions. Despite this, the attrition rate of Indian college students was very large.

The emphasis on post-high school education, a major policy shift, was criticized within the Bureau and the Indian community. By de-emphasizing vocational education, some asserted, students were forced into making a more limited career choice. Nevertheless, the decade of the sixties witnessed a significant jump in post-high school enrollment as more Indian students entered college or enrolled in vocational training.

The BIA and its Education Department responded, though weakly, to current trends in social and educational thinking. Perhaps because of the early stirrings of Indian activism, the Kennedy administration began to think in terms of cross-cultural education. Termination and assimilation were still strong currents in Congress, but were less popular with the administrative branch. New educational trends across the U.S. leaned toward relevancy, ethnic education, less rigidity and participation by students and parents. But the winds of change were slow in coming to the boarding schools.

On the day-to-day level, the boarding schools had changed little over the decades. President Johnson before he left office had suggested that Indian parents form school boards, but the implementation of this didn't come for years.

e. The Kennedy Report: Toward Self-Determination. The criticism of the sixties encouraged another look at the BIA education system. Congress responded with a Subcommittee on an Indian Education study started in 1965. Their report, called the Kennedy Report, examined the conditions in the boarding schools, calling them a "total failure."

Problems found by the investigators covered several areas. Some were a matter of the kind of educational goals desired. Some were in developing and maintaining lines of communication. Other problems were with the staff, their selection, training, and attitudes. Problems more difficult to deal with were in the nature of total institutions and the selection of students which resulted in a certain kind of population. Because of the great number of "Social Referrals" students who had difficulties in other institutions made it mandatory for the boarding schools to develop an alternative approach.

Relevancy and adequacy were the main deficiencies of the curriculum (Kennedy Report, 1969). The standard secondary school materials were inflexible in responding to the particular problems of the students. Preparation for post-secondary education was poor. Summer school remedial help for students entering college was still not adequate to catch them up with public school graduates. Even the most basic standards of high school level education were not met; inadequate budgets were primarily responsible for poor libraries and other materials necessary for education.

For students at the boarding schools, the experience fell far short of an educational challenge. They perceived the school as an easy place, where they could do far less than was required of them in public schools and still get by nicely. They were resigned to the "fact" that they had limited potentials as Indians, and thus accepted the school's easy low standards as right for them. The Kennedy Report recommended, in its "exemplary school program," the development of bilingual and bicultural education programs to meet the needs of cross-cultural education.

Another problem was a confusion over BIA goals for Indian education for a while, such as an emphasis on post-graduation training, and how they related to the role of the individual schools serving unique populations of students. Allocating scarce resources to serve a diversity of student needs had become a major problem.

Probably the most devastating problem in administration was the lack of communication between it, the staff and the students. Each department operated oblivious to what the others were doing.

Problems with personnel included selection criteria, training, student/staff ratios, the expectation of failure syndrome, and a number of factors which add to the stress of the lower echelon positions.

STUDENT PROFILE DATA

HIGH SCHOOL	PRESENCE OF ALCOHOL AND DRUG PROBLEMS	SPEAKS &/OR UNDERSTANDS TRIBAL LANGUAGE	RECEIVES JUV. COURT, CHILD WELFARE REFERRALS	HOME PROBLEM SITUATIONS	PUBLIC SCHOOL DROPOUT	ADMITTED UNDER SOCIAL CRITERIA
Aberdeen Area						
Flandreau	YES	32%	YES	40%	60%	80%
Anadarko Area						
Chilocco	YES	40%	YES	75%	15%	25%
Riverside	YES	95%	YES	70%	70%	35%
Fot Sill	YES			37%	75%	75%
Albuquerque Area						
Albuquerque School	YES	100%	YES	25%	90%	82%
Phoenix Area						
Intermountain	YES	60%	YES	80%	80%	90%
Phoenix Indian	YES	90%	YES	70%	80%	80%
Sherman	YES	90%	YES	45%	50%	75%
Stewart	YES	91%	YES	80%	50%	85%
Portland Area						
Chemawa	YES	13%	YES	63%	90%	90%
Juneau Area						
Mt. Edgecumbe	YES	70%	NO	25%	30%	30%
Muskogee Area						
Sequoyah	YES	40%	YES	51%	90%	70%

TABLE 1
(Underwood, 1976)

Due to Civil Service procedures, the boarding schools were, and still are today, filled with teachers and other personnel who have been around through many administrations (Some even went to the boarding schools as students) and have not changed their attitudes quickly with the issuing of new directives. When a new direction toward professionalism was desired by the administration, it was impossible for the superintendent to fire the old teachers and hire new ones.

The criteria for selecting personnel was also questionable. Personnel was not selected on the basis of their knowledge or interest in Indian students. They were not specifically trained to deal with the unique school population. One point that must be taken into consideration is, if the personnel hired were well-qualified and highly motivated, the job was too burdensome because of understaffing.

The compendium of Indian Boarding Schools Evaluation discussed several schools, one of which was Stewart Indian School near Carson City, Nevada, reflecting an alternative approach.

"The principal believes in trying new approaches and remedial programs, but must work with teachers who he has not chosen, and a completely inadequate budget." (Compendium, 1969)

Boarding School Criteria

The complaint of the fifties that there were too many "problem children" to deal with grew in the sixties and seventies. The criteria which still exists today, on which students are selected show how this happens. There are two general areas, education and social criteria.

Education Criteria

1) Those for whom a public or Federal day school is not available.

2) Those who need special vocational or preparatory courses.

3) Those retarded scholastically three or more years.

Social Criteria

1) Those who are rejected or neglected by their families and for whom no suitable arrangements for alternative care can be made.

2) Those who belong to large families with no suitable home and whose separations from each other is undesirable.

3) Those whose behavior problems are too difficult for solution by their families or through existing community facilities.

4) Those whose health or proper care is jeopardized by illness of other members of the household.

The obvious and undesirable result of selecting students according to these criteria is that a majority are referred for "social reasons."

The special resources and services needed by these students are often in short supply or nonexistent.

Students were often referred to the boarding school by social workers in their home communities. Once the referral was completed, there was little communication between the educators, the guidance personnel (often the dorm aides) and the social workers. There was also little adequate communication between the Division of Indian Health personnel and the school staffs. Just as the Compendium concluded, "much of the blame for many of the schools' failings must be attributed to the evident fractionalization of responsibility." (Compendium, 1969)

Indian students in the boarding schools become institutionalized. Dr. Thaddeus Krush reported his thoughts on students' personalities; "Frequency of movement and the necessity to conform to changing standards can only lead to confusion and disorganization of the child's personality. The frequency of movement further interferes with and discourages the development of lasting relations in which love and concern permit adequate maturation." (Krush, 1966)

Control of the students called delinquent led the administration to establish certain rules and procedures which were oppressive to the other students.

The Kennedy Report's conclusion recommended an "exemplary school system", one part of which would be to develop therepeutic programs designed to deal with the emotional, social and identity problems of Indian youth.

8. Post-Kennedy Report Research. Following up the Kennedy Report, several researchers attempted to identify the specific break-

downs in boarding schools, and designed programs to help meet the needs.

Hammerschlag focused on the feedback loops of student failure. The self-fulfilling prophecy of student failure, he said, is actually a reciprocal process in that teachers also fulfill student expectations:

"Students and teachers seem to collude to develop negative expectations of each other, which each then proceeds to fulfill. The result is that neither teachers nor students develop; both become estranged, to not use their full abilities, and fail to grow and perform together." (Hammerschalg et. al., 1973)

In examining the problems of administration, Hammerschlag did a human systems analysis of the Phoenix Boarding School. He pointed out that each subsystem of the school functions as if it were totally independent and involved in mutually exclusive tasks. Moreover, the impermeability of boundaries between sub-components of the schools, he said, were reinforced by interactions between the school and the external environment such as the community and the Indian reservations. (Hammerschlag et. al., 1973)

The multi-tribal, off-reservation boarding high school presents a challenge for a change of a different magnitude. The fact that many of the students are young men and women about to assume adult roles in their tribes and a multicultural society is a challenge that has not been met and requires urgent attention.

This study compared the off-reservation secondary boarding school to public schools. While acknowledging that there are no institutions in the U.S. that are directly comparable to the off-reservation boarding schools, this study compared the annual per-pupil expenditures of the boarding schools, with training institutions for students with needs similar to Indian students. The bulk of the institutions in the latter category were state training schools in the states of Oregon and Oklahoma. The annual per-pupil expenditures for the 12 off-reservation boarding schools were $6,683. The comparative institutions have annual per-pupil costs ranging from $7,700 to $18,000 with most institutions expending approximately $10,000 per year per student. (Underwood, 1976)

The Bureau of Indian Affairs, Office of Indian Education has been going through reorganization (officially or unofficially) for the past five years. This has happened because there have been numerous Directors or Acting Directors of Indian Education Programs. The result being lack of continuity, the changing of personalities, and the rise and fall of various pressure groups. The only reason there is any semblance of organization through the existing system is because field personnel are concerned with the delivery of educational services to tribal members. It has to be stated that some programs have floundered due to lack of direction and the unwillingness of some personnel to work within the existing system. Because of this lack of direction and the problems that exist, there is once again a movement to reorganize the management of education programs. In some instances, the movement for reorganization has been used as an alibi for the inability of the Bureau Education Office to provide services to the Indian communities.

There has been massive tribal resistance to the proposed reorganization of Education for two principle reasons. One is that the Office of Indian Education Programs has failed to clearly and candidly tell tribes in specific detail what the reorganization plans are. Second, and perhaps more importantly, tribes have the view that they should have the opportunity to assist in the design of any reorganization from its inception. (Indeed many tribes believe that changes such as the proposed reorganization should be initiated by them if they feel the need for such change). Any organization or reorganization of the Bureau's education program structure will be functional only if the staff at the operating level and the recipient of the service understand and accept the principles and philosophies of the reorganization. Successful functioning of the organization also requires that the people in the top management positions understand and accept the organizational principles and philosophies. The Bureau presently has an organization structure based on the fundamental concepts that: day-to-day operations are carried out at the local level with day-to-day tribal government input; technical assistance in programmatic and administrative matters are provided at the Area level and policy direction and guidance with formulation of budget justifications Bureauwide, is furnished from the Central Office level. If top management in the Bureau accepted these organizational principles and philosophies, and knew how to perform basic management functions, the present system of organization would serve admirably for the delivery of education services to tribal members.

STATEMENT OF RAY SORENSON, ASSISTANT AREA DIRECTOR OF EDUCATION, BUREAU OF INDIAN AFFAIRS, PHOENIX, ARIZ.

Mr. SORENSON. Thank you, Mr. Chairman. I wish to thank the committee for the opportunity to appear before you, and make some brief comments concerning H.R. 9157.

I first honestly have to express myself by stating that it is most unfortunate that the administration of education programs has to be legislated. The Bureau of Indian Affairs' organization and system of delivery of services is adequate, providing management at all levels is willing to function within the system, and work through with each tribal government on an individual basis, to establish some tribal educational priorities and to carry out their education program through Public Law 93–638, giving the Bureau of Indian Affairs directions for involvement is the tribes are willing to retain those services.

Section 10 of the bill is all-inclusive. My major concern at this point is that the regulations that will be developed to implement this bill will assure tribal involvement and respect our tribal sovereignty.

Most tribes have various educational needs: Unicultural, geographical location, reservation resources, projected economic development, and population. The regulations should be developed through tribal involvement. The tribal governments should not be circumvented from developing or implementing their education programs.

The Bureau of Indian Affairs should be held responsible for the establishment of an educational model that perhaps can be an exemplary program. This model would be the orientation and training site for both tribal and Bureau teachers, and school administrators.

This model should provide an education and information system supplying educational data for tribal and Bureau use concerning all facets of education.

Section 12 of the bill could be strengthened by insuring that adequate funds will be made available to meet the special education needs of Indian children. The funding levels for children in some school districts in the United States are not adequate to provide an exemplary education program.

It may be necessary to provide funding that exceeds some public schools' costs.

Section 15 of the bill would resolve the problems of hiring teachers. The existing hiring system is not structured to provide certified teachers and school administrators in classrooms and schools throughout the academic year. The tribal schools strongly support local hiring of educational staff.

This bill does not mention school construction. Without adequate structures to carry out an educational program, it would be impossible for tribes or the Bureau to provide adequate education programs for Indian children, the basics or any educational program without adequate facilities, a relevant curriculum and the necessary teaching expertise.

I wish to commend this committee for permitting some of its members and staff to visit schools, agencies, and area offices. The committee has extended itself to get involved. If their involvement will prevail during the development of the regulations implementing this act, improved education programs for Indian children will be the end result.

Thank you.

Mr. BLOUIN. Thank you, Mr. Sorenson.

Mr. Zephier?

STATEMENT OF HARLEY ZEPHIER, DIRECTOR, BUREAU OF INDIAN AFFAIRS, ABERDEEN AREA, S. DAK.

Mr. ZEPHIER. Thank you, Mr. Chairman.

The following comments are offered in reference to the bill to reorganize the operations of the Bureau of Indian Affairs for improving Indian educational services.

Should this bill become law, we have some concerns as to how this will affect the present options that the tribes and the communities now have as to the management options at their schools under Public Law 92-638, with self-determination as a concept still available to the Indians in the Indian community.

This is a very, very delicate question since the law does, in a sense, provide the opportunity for contracting with the schools at the present time.

Another area of concern that we feel should be clarified throughout the legislation is the area of the role of authority that the tribal governing bodies play, and the role of the advisory school boards.

This bill would be providing for a direct line of authority from the director of the office to the local level schools with historic contacts from the director of the office to each affected school. We would assume that proper provisions would be established to safeguard the minimum funding allotment of each school, should controversy arise between the supervisor and the local school concerning the school's budget.

We are concerned as to how any conflicts in this area will be resolved, and what assurances the schools will have that funds beyond the minimum amount will be available per section 14, general authorization.

There is a possibility that the Indian contract schools will take issue with section 15(b). It indicates that all educational personnel of contract schools will be hired in the same manner as Bureau educational personnel. We foresee some contract schools being against such procedures.

The tribes and the local school boards will be concerned about the timely delivery of requested technical services from the director of the office; the timely delivery of technical services is vital to the conduct of the program.

We believe that the tribes and Indian communities should have an active role in the development of any program that will affect their lives. We are assuming that they will be given this opportunity at the appropriate time.

We feel that additional comments may be generated from our area as a result of input from our Indian people. Without such input, we feel that apprehension, misunderstanding, and distrust will be created.

The above comments are offered as a positive approach to the proposed bill. The ultimate goal of any such legislation would give more local involvement in the educational process to Indian people, which is a goal that we agree with.

However, to fully reach this goal, we must have many levels of involvement, and input from many people, to come up with the best system our resources can provide for reaching that goal.

Thank you for the opportunity to make this statement.

Mr. Blouin. Thank you.

Let me go through a series of questions, if I may, Mr. Zephier, with regard to your testimony. I tried to follow it, and write questions as I went along. I ended up not finishing when you finished.

Let me take them one at a time. Your first point, you are concerned about whether or not self-determination would still be available. Is there anything specific in this bill that would lead you to believe that it wouldn't?

Mr. Zephier. I think that this is one of the concerns that have come from the field people, by saying: You now have Public Law 93-638, why do you have to now add something more separate. In a sense, they view it and say that this is available already.

Mr. Blouin. Such as? What are you adding separate to it that is already available?

Mr. Zephier. The effort now is to have a centralized point, to go directly to the tribe and see whether they agree with it. The fact that we have not had an opportunity, I think, to get the technical assistance to the tribes, merely from an administrative standpoint. It is merely an administrative mechanism that they have expressed to me as a means of saying what they possibly could see as a more separate thing, aside from the regular BIA. It is self-developing so that you would eventually have a sense of pulling away from—this is a major concern that they feel. If that answers your question.

Mr. Blouin. I am not sure it does. I am not sure I understand what you are getting at.

In terms of self-determination, how would this interfere? It would be my impression that the bill itself would further self-determination for Indian people. It would give them a broader, much more comprehensive understanding of that term.

Mr. Zephier. From a self-determination aspect, I think this is correct. There is no problem with that. I agree that this would be a better way to actually deal with the community and the education.

The only thing I was expressing was what I feel a lot of people feel may be something that will happen down the road, where you will have a completely separate education division—aside from what the Bureau is now working with. In other words, you pull completely away from that.

Mr. Blouin. Let us look through the bill. As I understand it, and it was our intent, there are really three options available to the tribal government. There is the public school option with direct signoff control over the funds that go into that school as a result of Indian population.

There is a BIA run/operated option, and then there is the contract option. In all three instances those options are there today, but they are not self-directed options in many instances. When they went into one option, in most cases they could not go into another.

When they opted to go the public school route, or they opted to go the BIA route, the contract route, they were locked in. We just give them redirect options. We allow interchange within those three choices.

What is new in that in terms of the structure?

Mr. ZEPHIER. I don't see anything new. It is just a reaction that we got from those staff and Indian people in the last several months. We are merely expressing a concern that was brought forth at that time.

I don't see, myself personally, that there is any reason why you would not go or take several options, and still do the same thing, and reach a more solid determination as far as the community is concerned.

Mr. BLOUIN. The role of authority, the tribal governing body plays vis a vis, the role of the advisory school board, that is really a tough thing to balance out. How would you suggest it be done?

Mr. ZEPHIER. The mechanism that could be used, which we are presently using, of course, is the tribe, the governing body, would merely pass a resolution allowing the school board to contract for a program, an education program.

I feel that this is the mechanism that is now being applied under Public Law 93–638, at the present time. The other option is legislation, if there is any difference there, but I did not see any real difference. It would give them a greater opportunity to proceed on that basis.

Mr. BLOUIN. The difference comes in in that these boards will no longer be advisory, in the present sense of that term. They will have a direct role to play. They will have the final role to play in the sense of selecting options and running the school.

Do you think that that board should be, in all cases, appointed by the tribal council; or do you think that it should be an optional thing where the tribal government does not mandate direct control, but reverts to an election process?

Mr. ZEPHIER. I would be inclined to go with the selection process for such a body as the school board.

Mr. BLOUIN. Except where the tribal constitution interferes.

Mr. ZEPHIER. Yes.

Mr. BLOUIN. In your area, are you familiar enough with the tribal constitutions to give me a ball park guess as to what percentage of the tribal councils would have to appoint?

Mr. ZEPHIER. I don't think that there are any, really, that would have to appoint. Most of the constitutions come back to merely having a Health, Education, and Welfare Committee. Otherwise, I think that the authority, just for constitutional granting of an election for school board members would be available, to most tribes in the Aberdeen area.

Mr. BLOUIN. In your fourth point, you talk about concern with section 6(b), that was on the rough draft that has been sent to you, and translates into section 15(b), "The Secretary establishes regulation," et cetera.

Would you expand on that for a few moments, what the concern is, and try to spell out?

Mr. ZEPHIER. I have not seen the newest print.

Mr. BLOUIN. The wording would be identical to the old one. We took both of those drafts that we sent to you, and stuck them into one bill, so it would be easier to digest. There have been a lot of references around, and it is easier to work with. This is the draft now, as opposed to those pieces.

Mr. QUIE. Would you yield on that?

I think you are talking about the national area list. The reason for the list is that they have one there for people to apply through, since it has been the experience of having it under BIA schools. But they do not have to use the list. They can go out and hire their own teachers in the individual schools. The contract schools now do not have to depend on the list for civil service reasons. Now, the way the bill is, they don't have to depend on the list, or use the list at all, the way the bill is written.

Mr. Blouin. Is that what your concern was, or is your concern with the control over the actual hiring?

One of the things that I noted when I read through this thing the other day was that the supervisors cannot be fired by the school board, and I don't think that this was intended.

The supervisor is the one who hires all the teachers and fires all the teachers, if that is the case. But the school board can hire the supervisor, but cannot fire him. There is no mechanism for discharging him. Is that one of the things that bothers you?

Mr. Zephier. That is one of the things that I objected to there. Most of the school advisory boards now are very concerned about getting more totally involved in the educational system, which means having a little more authority than what was brought out here, to deal with the broader scale of teaching staff, rather than one person.

Mr. Blouin. You are not that much concerned about the building of a list. Your concern is making sure that there is direct control of the staff in that school. That those people are, in fact, answerable to that school board.

Mr. Zephier. Right.

Mr. Blouin. I acknowledge that concern, and I have the same thing. That is why it is a working draft. I hope that we can iron out many of the discrepancies.

Mr. Pressler. I will have a few questions after a while.

Mr. Quie. I understand your question No. 3. Is there a minimum level of funding now that you are referring to, where the general appropriation is for "such sums." Or are you concerned that we may not appropriate any money?

Mr. Zephier. The concern there would be, once you go into a new legislative route, I think most people react normally by saying, is this still going to be funded at the same level? We just wanted to be sure that at least the funding remained the same, if it is turned over.

Mr. Quie. You don't have any assurance that the Congress is going to continue to appropriate money. That concern is raised by a number of people because we don't have a limit on it. The sky's the limit.

Mr. Blouin. We have an open-ended authorization throughout the bill.

Mr. Quie. The reason we did that is so that we would not get into an argument on the amount of money. Once we sit down, we will take a hard look at it, and set the amount of money. It is your concern that we keep it at the level at which it is now.

Now, question No. 5. It is my understanding, the way we have it written in the bill, the general area personnel would not be the ones that would have jurisdiction, but the director of the office of education, who would deal through his personnel in the area, would provide the technical assistance.

Area offices of the Bureau should not exercise any function in matters involving Indian education, except education personnel located in such area offices, or under the direct supervision of the director of the office of education, who will provide the necessary technical assistance to the schools assisted by the funds described.

Do you have any problem with that? I know the way administrations in the past have been. They have wanted the persons in the area office to be in charge of all the functions. That is the way it is in other portions of the government. For instance, you have somebody on vocational rehabilitation, and the State wants to talk to the vocational rehabilitation person in the area office, and he has to go through the area director down to the person handling vocational rehabilitation. If that person will not do anything, he does not deal with the Washington vocational rehabilitation. He has to go through the area vocational rehabilitation, from the Bureau of Education through the education personnel in the area office, and to the school.

Mr. **Zephier.** Yes, sir.

Mr. **Quie.** This is all I have.

Mr. **Blouin.** Mr. Pressler.

Mr. **Pressler.** Harley, nice to see you here from my congressional district. I had some questions the other day, and I am trying to follow up a little bit.

The options that you have in contracting under Public Law 93-638, what type of technical assistance is there from the agency area to inform tribal leaders of their contracting options under Public Law 93-638; are there workshops or seminars, or how do you find out about it?

Mr. **Zephier.** It is delegated through existing tribal government sections in the area office and its coordinating office. Over the past 2 years, we also have established a 638 coordinator at the agency level, and from there we have been holding training sessions, and we continue to operate on that basis.

Mr. **Pressler.** In you area up there in Aberdeen, do you utilize many contracting options?

Mr. **Zephier.** Yes; we have an extensive amount of contracting going on in the Aberdeen area.

Mr. **Pressler.** Do you expect that this would increase, or that this will affect in any way from what your present operations are?

Mr. **Zephier.** I am sure that it probably would increase with this kind of legislation.

Mr. **Pressler.** This is all I have right now, Mr. Chairman.

Mr. **Blouin.** Thank you, Mr. Pressler.

Mr. Sorenson, I have a few questions for you in regard to your long testimony that you submitted for the record. You made several points throughout it that raised several different questions. I would like to get into it a little bit.

As we talked about that earlier, in the formation of that school board, who should have the control over that board? Should we follow the constitution of the tribe? Should they all be elected, or should they be appointed by the tribal governments?

Mr. **Sorenson.** The control of the school board, in order to keep continuity with tribal programs, the authority of the control of the school and the school board should be right at the tribal level, the tribal government level.

As Mr. Zephier pointed out most constitutions have provisions for health, education, and welfare committees. In terms of members on the council, I know the tribes in the Phoenix area, as an example, we have the Phoenix intertribal school where nobody can become a member of this board unless they have a written authorization from the tribe that they represent.

Without the tribal government having control of the school board, you would just have another faction to deal with. The tribal government is the official authorizing body for the tribe you are dealing with.

Mr. BLOUIN. You would not have them elected at all.

Mr. SORENSON. That would be the option of the tribal government itself. If they so choose to have an election, they should have an election. If they wanted to appoint, they would appoint specific members. That would be an option of the government.

I don't think that it can be dictated as to how members will be placed.

Mr. QUIE. Would the gentleman yield?

Mr. BLOUIN. Yes.

Mr. QUIE. You point out in your testimony some of the shortcomings of Indian education in the past. I recognize that, looking at it from my own culture, rather than the Indian culture.

I would not like to see us have the governing board appoint school board members, as they do in the District of Columbia. I would like to have the law changed so that they could be elected.

The reason being is that education is so important that you need to have individuals whose main responsibility is education. The county commissioners, or the city council members have problems with the control of crime in the street, sewers, and all the other things.

Unless that person's main responsibility is education, it seems to me that we are not going to receive the kind of policy development that we are looking for. Therefore, I believe that wherever possible, we should have an elected school board so that they would feel responsible to the parents, the people whose children are benefiting from the education, rather than the constituency being the governing board of the tribe who looks at it with competing interest.

Mr. ZEPHIER. I would agree with you, except for one reason, and that is, each tribal government is an elected government. They do have a constitution. What I am saying is, I think each tribal government should have the option of either conducting elections, or however they want to establish their school boards.

I think that it is their right, and without giving them their right, I think you are eroding their sovereignty.

Mr. QUIE. I agree that if the constitution states they shall be appointed, then they should appoint. If it is absent in the constitution, however, then I would like to give them a little push toward election.

Mr. SORENSON. I would like to make the committee aware that you have advisory committees, and with title IV you have other committees. We have some examples in some of the schools in the Phoenix area, where we have an advisory school board. We have an advisory committee for title I. We have an advisory committee for Johnson-O'Malley. You go on down the list.

Truly, you run out of parents in some schools in order to serve on all those things.

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Mr. BLOUIN. What we envisage is not an additional, but an instead of. Roll them all into one, and have the same kind of signoff power over supplemental programs as they would over basic. It would really make them a school board in every instance, and eliminate that fragmentation that goes on.

With that in mind, you are not just putting another advisory board out there, which is more of a "Peanuts' blanket," than it is a meaningful tool, but you are really, in fact, putting a meaningful functioning board of people who will run that school for all practical purposes.

Mr. SORENSON. That would be good. There would have to be legislative changes in terms of the title I guidelines, and also Johnson-O'Malley.

Mr BLOUIN. That is what we are trying to do.

Mr. SORENSON. If you could pull it together, that would be great.

Mr. BLOUIN. That is what we are hoping for, but it is a long-frame goal.

Let me ask both of you just a general question. Do you, having just read through the two drafts that we have sent you, do you realize that we are also talking about an additional piece of legislation that would speak to supplemental programs as well, having them follow the same path of signoff authority through the same school board?

Aside from specific problems that we know exist in the drafting of this, do you agree in principle with the general direction of the legislation?

Mr. ZEPHIER. I agree with the general principles of the legislation. It is good. In the matter of self-determination, the tribes will have the opportunity to provide some more to it.

Mr. SORENSON. I would agree with it. Again, my only concern is that in the development of the regulations to implement the bill, tribal sovereignty is respected and that there will be tribal involvement for the programs.

I think the plus factor of the bill, as I see it, as an educator—we are 36 teachers short right now in our schools in the Phoenix area, and this would make provision for getting people on board when they are needed, and provide continuity in the classroom.

In Public Law 94–142, we are again going to have to provide education for the handicapped. It is imperative that something happen to change the system for us to get educators into the classroom. Our hands are tied right now, and it is a real frustration.

Mr. BLOUIN. Would you both agree with the effort to move the teaching personnel from civil service?

Mr. SORENSON. That would be one option. The Civil Service Commission could grant a local hiring authority. Right now, we go through the register over and over, and by the 1st of July we had all of our positions filled in education, but by mid-May you get last minute resignations, retirements, or whatever. Then, in this system, you have to start all over again, and go to the register. We are getting names of people who are not available for employment.

I am certain that by December or January, we will still be searching through the register to get people.

It is fascinating to me that the Bureau is responsible for the education of 55,000 Indian children, and we are talking about children who have special needs. We should be hiring the best teachers. We should not end up taking what is left over, and the rejects from public school systems. So this definitely has to be changed.

Mr. Zephier. My reaction would be that it would be better not to be civil service. The long-term goals, of course, of self-determination concepts, the capabilities of tribal government or communities, to be able to go out and recruit teachers, and hold them accountable.

Mr. Blouin. Mr. Pressler?

Mr. Pressler. Mr. Chairman, after the vote, I am going to have to go to the school lunch conference, but I wanted to say that I am going to leave a few questions, if you would ask them for me.

Mr. Blouin. I have a few more questions that I would like to ask. We do have a vote. We would like to recess and then come back, if that is all right?

[Temporary recess.]

Mr. Blouin. The subcommittee will come to order.

Thank you for waiting. Let me ask you both one general question, again.

In your opinion, what would be the best way for us to go about soliciting Indian input? You have both made the point, I think, one way or another, about the need for tribal and Indian input directly into our process.

After December, after our field trip to Montana and Washington, we will have been in every BIA area, with the exception of California, since February, within less than a year's period of time.

We are in the process of distributing this legislation to as many people as we can find, beyond that, how do you suggest we go about getting tribal input?

Mr. Zephier. The information will be going out. I think that the area offices as well as the agencies will do everything possible to try to hold some meetings locally and encourage the tribes to review and get some reaction back. That would be the role that we would play.

At least we would get them started in the right direction in terms of gettng some input. I would also hope that there would be an effort, maybe on special invitation, to contact all the Indian organizations in existence, such as the NTCA, and the NCAI.

Mr. Blouin. They are both scheduled as witnesses for Friday morning. Our witnesses for Friday morning will be National Indian Education Association, the National Congress of American Indians, the Coalition of Indian Controlled School Boards, the National Tribal Chairmen's Association, and the Navajo Tribal Council. That is a start. Where do we go from there?

Mr. Sorenson. I think for too long the Bureau has involved tribes in a perfunctory manner. I think the Bureau has not listened to the tribes as to what their priorities are. Again, I would say that the tribal involvement is not sending a policy for review, or a draft policy for review, and then giving an unrealistic deadline of 5 days or 10 days to get your input back in.

I think that involvement is where the tribes do have time to make suggestions and then if they don't agree with the policy, to sit down and negotiate in terms of what do you want. I think the Bureau, if they are going to have tribal involvement, they will have to be willing to change policy to meet the tribes' needs, rather than saying: Well this is the direction that we are going into. This is my baby. We will send it out to the field, and when input comes back, if it is not what we want, we will accept that which is in favor of what we want.

Mr. BLOUIN. We have the same problem legislatively, falling into that kind of a rut.

Would you suggest that we follow any specific patterns for soliciting input?

Mr. SORENSON. I would say, again, that the officially recognized body is the group that the Bureau should do business with, and not circumvent tribal government, and to go to factions outside of tribal government. After all, the government is the elected officials. When you hear from them, you get their input, then I would say that you have authority or a basis to go ahead and establish policy.

Mr. ZEPHIER. Mr. Chairman, I have one more comment. If at all possible, I think that it would be good, along with what Ray is talking about, if something in the legislation that provides not just a flat standard across the Bureau of Indian Affairs, because if you look at tribes, some tribes are further ahead than others. When you apply something across the board, that is when you get the negative reaction from tribes.

So if there is some way that this could go in there in terms of allowing each tribe to be able to develop some guidelines, I think that this would help ease the entire situation, which we want to do right now.

Mr. SORENSON. The mechanism for Public Law 93–638 is a pretty good system for total involvement in dealing with an indvidual tribe.

Mr. BLOUIN. One other question. There has been some concern voiced in area offices since the area offices are going to lose effective control of the personnel and budget under the proposal. Do you have any reaction to that; do you feel bad at all?

Mr. ZEPHIER. My reaction, of course, is that there probably will be internal reaction to something like that. As an area director, I feel that there are a lot of things there, where we are allowing a lot of duplication to occur. One of the gray areas, where we are constantly running our head against the wall, at all times, is personnel.

My suggestion, as I look at it, after a couple of years of experience in the area office, there is no reason why this could not be handled at the agency level, and delegate that responsibility right to them, which is in line wth what we are discussing right now.

On the budget, each tribe has its own band analysis. The superintendents are held accountable for their budgets. I see no reason not to support that effort. It would be directly in line with where it is going to be. I have not seen anything official myself.

Mr. BLOUIN. Ray, do you have anything?

Mr. SORENSON. I don't think that it will cause any problems as far as areas are concerned. Like Mr. Zephier stated, the tribes are involved in terms of input with the band, establishing their priorities. They have a right to go from one program to another in terms of their priorities.

I think that it might cause some problems, attitudinalwise, on the part of some employees. But I think the major concern is that there is delivery of service to Indian people.

It is said that in some areas they are ripping off the education program. I don't see how this can be a valid statement when the tribes are developing their budgets, and they are banded.

It might be a little different with the off-reservation boarding schools where you are dealing with numbers of tribes. But if you break and make each off-reservation boarding school submit its budget into the band, then they would be on their own. This way you could avoid that.

Mr. **Blouin**. One thing that I was going to ask earlier, and then I lost it. If you remember, one of you commented about the lack of a construction section of the bill. There is a provision in here that considers bringing every facility up to snuff within a certain period of time, determining what health and safety codes are not being met, and meeting them within a certain period of time with an open ended authorization, as much as we will dream there, too, in that section, so that the funds would be there to do it.

I assume you are referring to the need, the unmet need in terms of facilities that need complete replacement, or facilities that are just in absence.

Mr. **Sorenson**. I was referring to both, Congressman. Tribes, if they want to contract a school, they would have to have adequate facilities to implement their educational program. A lot of the facilities that would be handed over by the Bureau, they are inadequate.

Just a recent inventory of the educational facilities in the Phoenix area, just to get us on board in terms of serving handicapped children under Public Law 94–142, it is estimated that it will take between $3 and $4 million to upgrade the existing facilities, just to meet the law.

Mr. **Blouin**. Just one other question with regard to Indian preference in hiring. A bill on this topic has been moving through the Civil Service Committee, which would make Indian preference optional with the local Indian governing body. Do you have any response to that, any opinion on that?

Mr. **Sorenson**. We have had situations where the tribe has been given a certificate with three names on it, all being Indian people. The tribe assessed all three individuals, and then said that they would not like to hire them.

I think that the tribes are most desirous of hiring an Indian person, if they feel that they are well qualified and will carry out the education function. We have had requests by two tribes in our area to have leniency to this, because they wanted to hire someone that the community had confidence in, and who was well qualified, but they could not do it.

I think that it would be to the option of the tribe. I am certain that the tribes are not going to hire anyone who will not do the best job for them.

Mr. **Zephier**. You are talking mostly about, let us say, the school situation, and so on.

Mr. **Blouin**. That is right.

Mr. **Zephier**. Most tribes would agree that they should have at least an option available to them to be within their right. I would have to agree that most tribes would probably react the same way.

Mr. **Blouin**. The language would really say two or three things. It would say that no Indian would be appointed to any position unless he is qualified, which I think is what most of the tribes have been asking for.

Indian preference would rest with the tribal organization, who would be required to grant a waiver. If it was going to be waived, it would have to be specifically written out. It would mandate the BIA to establish a recruitment policy or an upgrade policy, a promotional policy for Indians within the system.

It also eliminates one of the biggest, real problems within the current system, lack of reassignment flexibility for the non-Indian civil service personnel. It would allow reassignment within the BIA, other than in a position of a higher grade, of an individual that the Commissioner determines, in writing, that under stated circumstances, reassignment is necessary to assure the safety of the individual, and that any problems are beyond the control of the individual being reassigned.

What we are trying to do is to respond to many of the arguments and real frustrations that we find in the field on all sides of the question. I think that it does it fairly well. Just about everybody we have bounced it off has responded very favorably to it. We have not found anybody who does not like it yet and we are looking.

Mr. SORENSON. Could I ask a question? Is that included in 9157?

Mr. BLOUIN. It is not in that bill.

Mr. SORENSON. I thought that it was your recommended amendment to 4153.

Mr. BLOUIN. It is. There is a reference in here to it on page 18, the bottom of the page: "Notwithstanding any provision of law, the local Indian school board shall have the authority to waive any preference of Indians for appointment to employment in positions related to Indian affairs which is required by law." Other than this specific reference, the rest is an amendment found in 4153.

Counsel mentions that if 4153 is passed before this, it would not be needed. We hope that that will move faster than this.

Our goals are to take these proposals and make them a title to the ESEA Act, which will be up for reorganization next year. So we will have a vehicle to move it through Congress. We have some time, but not a lot.

I have no more questions. Does the staff have any they would like to ask?

Mr. CROSS. You were talking about construction earlier. We had a hearing last week about the new priority system of construction. I would appreciate hearing the reaction of both of you on how you feel about those systems and how it is going to affect construction.

Mr. SORENSON. I would like to respond only for the Phoenix area. I think that it is terrible. The reason I say this is because we had four schools that were a higher priority in the Phoenix area, as a result of changing priorities, they fell down the list.

Now, it is questionable whether we will get any of these four schools.

Mr. CROSS. Do you know where they are?

Mr. SORENSON. I think the closest on the list, and there have been so many lists out, I could not respond to which one is true, and that is a confusing thing. But I would like to say this. Commitments were made to individual tribes, commitments as high as the Under Secretary of the Interior, when he came out to the reservation and stated to a tribe that they would get a school.

Then all the necessary functions took place. The tribe selected the site, even to the point of being involved in terms of interviewing architects. A contract was let to the tribe to develop the specs, and then this new priority came out and really the tribe said: "You are lying to us again." The tribes did not have any involvement in this priority system.

I personally feel that it is a very bad thing. Unless justification can be given to the tribes that are so radically affected, and I hope that I am not the one that has to go out and justify the priorities, or the change in the priorities.

Mr. CROSS. Before Mr. Zephier answers, what about the old system? Was it better, if you can call it a system?

Mr. SORENSON. School facilities, they did make an attempt to come in with how they were going to establish the priorities, and all schools in the Bureau did respond by filling out the necessary forms, and coming in with the necessary information in terms of what their needs were. There was a priority list established at that time.

So, when the new priorities list came out, the tribes were begging to find out how do they get on this priority system. The new way of getting on it has not been released yet. So, again, this caused restrictions. People will respond and do what they have to do, to get what they want, providing someone can tell them what it is they have to do.

Mr. CROSS. Mr. Zephier?

Mr. ZEPHIER. The only comment I would have, I think there needs to be a little more study done on the prioritizing system for this, because as I said there are just too many problems that are being encountered as you go through something like this. The dollars are never adequate, not even for maintenance of buildings and that kind of thing.

You are scraping every year to try to get something funded. You know that if you don't get this done this year, it is going to cost you three times as much next year. These kinds of things. The schools get geared up, and everything, like you said, and they can never get it done.

So, I think that it needs a good, thorough analysis, and hopefully we will come up with something that is going to be very adequate in terms of getting the dollars for the purposes where they are needed.

Mr. CROSS. You mentioned, Mr. Sorenson, that there was a commitment from the Under Secretary, was that a written commitment of some sort?

Mr. SORENSON. It was a verbal commitment made on the reservation, to the reservationwide meeting with the council, and the statement was made that "you will get a high school." We have no high school on the reservation, and as you know some of those children have to be bused 60 and 80 miles a day to attend high school, or be sent off the reservation.

Mr. CROSS. Does the Hopi Tribe know that this priority system is in effect?

Mr. SORENSON. The Hopi Tribe has been informed that they are down in the priority, and they would not get their high school because of prioritization. The tribe has not accepted it, and I don't blame them one bit.

Mr. CROSS. What about the band analysis? I would appreciate hearing from both of you as to how it works in the area, the agency and the tribe level, and whether it really is beneficial to education to have this new system of band analysis?

Mr. SORENSON. I will speak as an assistant area director of education, and Mr. Zephier will speak as the area director, and he can tell me where I am wrong.

I think this works. You start out with the process of the tribes prioritizing what they want. The agency sends these prioritizations and the PPE get into the area office. They have identified where they want to spend their dollars.

There does come a time when the area director and all of his assistants try to get together and determine how many of these priorities can be accomplished with the limited amount of dollars that are available. That is where you have to start cutting.

I, as an assistant director, I am in there banging, convincing him that it is more important to expand education programs, to provide better services, than it is for some other priority. But the area director has this decision to make, because he is also dealing with the tribes, and it is really his determination.

I think that it works. At least, the tribes have been able to express themselves, and tell the Bureau where they want to spend their dollars. Unfortunately, you don't get enough dollars to meet their priorities.

Mr. CROSS. Has it been your experience that a good deal of what the tribes recommend cannot be carried out because of the lack of dollars?

Mr. SORENSON. Yes. For this reason, we have to be—if we have a chance to be funded at, let us say, the 95-percent level, the 195-percent and then 115-percent level. We are usually funded at about 102-percent level. So that does not even keep up with the spiraling increases in cost.

In the operation of a boarding school, just the food costs and utilities costs, really we are going in the hole, even though we get a few bucks extra every year.

Mr. CROSS. When you get appropriations at 102 percent of your current budget, and you had planned for 105 percent, what happens? Does everybody cut back 3 percent, or are distinctions made in some programs, cutbacks of more for some, and some not at all?

Mr. SORENSON. In terms of education, at the boarding school, you have to make a determination as to how many students you can adequately educate, house, and feed. You might have to cut the enrollment by 15. If you cut the enrollment, then this cuts your per capita costs, and then you get into a whirlpool.

Mr. CROSS. When do you find out that you have been cut?

Mr. SORENSON. After the band has submitted to the Washington office, and we get our tentative allocations at a later date, that is when we start looking hard at what our programs are.

Mr. CROSS. Mr. Zephier.

Mr. ZEPHIER. Once the budget has gone through the Congress, and the allotments are made——

Mr. CROSS. That is the point that I was driving at. You may not find out until June or July, and maybe even September, for a school year that begins in late August or September.

Mr. SORENSON. That is right.

Mr. CROSS. Mr. Zephier.

Mr. **Zephier.** The band analysis, I would have to say, is good. It allows the tribes an opportunity to set some priorities, if they are not satisfied with the dollars, and if there are not enough dollars. There are not enough dollars, I guess. for anything.

The basic thing is that we do not have all the local programs in the band, and that is where the tribe gets very concerned. We should have all the programs, so that they can have a total opportunity to set priorities on that band.

Mr. **Cross.** What programs might be aside?

Mr. **Zephier.** Law enforcement, public education, major construction, to name a few, that have not been in the band.

Mr. **Cross.** Those are uniformly in your area?

Mr. **Zephier.** All across the Bureau.

Mr. **Cross.** If you move in the direction of H.R. 9157, area offices would then be providing the technical assistance and the help to the local tribes, and the schools. Is there personnel now in the area offices adequately trained and qualified to carry out that function?

Mr. **Zephier.** I would say that they are very adequate.

Mr. **Cross.** How many people do you have functioning here?

Mr. **Zephier.** We have approximately 24 positions in the area office.

Mr. **Cross.** That is all in Aberdeen?

Mr. **Zephier.** In the area office, around the around. of course, that would be a major part of the 1,300 positions that we have for the entire area to deal with Indian education.

Mr. **Sorenson.** I would disagree in terms of the Phoenix area. We have nine permanent employment ceilings in the education office.

Mr. **Cross.** Are they professionals?

Mr. **Sorenson.** Yes; they are professionals, except one. We have one secretary. Then, I have had to hire additional professionals on furlough positions to carry out title I and title VI programs.

Now, with 94–142, we are going to have to have another area of specialty. I do not feel that we have adequate staff to be a true technical service to the schools. I think that we have to implement fairly adequate education systems. so that we know what is going on in our schools. Right now we are flying by the seat of our pants. Where we try to do this, it has to be computerized, and it takes expertise.

After you get the data, then you have to get someone to work with the tribes, and with the local communities in terms of what this data means, so that they can modify their education programs to meet their needs.

Mr. **Cross.** Thank you.

Mr. **Blouin.** Thank you both, we appreciate your coming.

Our next witnesses are, again in the form of a panel, Mr. Larry Holman, school superintendent, Eastern Navajo Agency, Bureau of Indian Affairs, Crown Point, N. Mex.; and Ms. Shirley Plume, Standing Rock Agency superintendent, Bureau of Indian Affairs, Fort Yates, N. Dak.

If you would both come up. We have both of your testimonies, and if you would prefer to summarize. we would like to have you summarize.

Ms. Plume, you can go first.

[The prepared statement of Ms. Plume follows:]

TESTIMONY SUBMITTED BY SHIRLEY PLUME, SUPERINTENDENT, STANDING ROCK AGENCY, BUREAU OF INDIAN AFFAIRS

HONORABLE CHAIRMAN AND COMMITTEE MEMBERS:

I am Shirley Plume, an enrolled member of the Oglala Sioux Tribe from the Pine Ridge Reservation. I have spent the past fifteen years on the Standing Rock Reservation as a Bureau of Indian Affairs employee. For the past four of these fifteen years, I have served as Agency Superintendent for the Standing Rock Sioux Tribe. As Agency Superintendent, I am responsible for the administration of all Bureau of Indian Affairs programs on the reservation and these include: Education (including the operation of elementary and secondary schools); Funding for Higher Education; Social Services; Law and Order; Employment Assistance; Credit; Land Operations; Realty; Roads; Plant Management; and Administration. I am a career employee with thirty-five years of service to my credit (some would say, to my shame). Of these thirty-five years, I have spent seventeen with the Branch of Employment Assistance, where we had the responsibility of helping adult Indians (ages 18 to 35) enter the labor market in urban areas through training and/or employment. This experience with the Branch of Employment Assistance helped to stimulate in me a new interest in Indian Education as I gained a new insight in the role of education in Indian life. I have, therefore, given the matter of Indian Education a great deal of thought. I am appreciative of this opportunity to participate with you today in sharing these thoughts and in discussing draft legislation to reorganize Indian Education in the Bureau of Indian Affairs.

I have with me Mrs. Emma Jean Blue Earth, an enrolled member of the Standing Rock Sioux. Emma Jean was a high school student when I first came to the Standing Rock Reservation. Emma Jean is the Director of the Standing Rock Tribal Board of Education and has served in that capacity for the past three years. In this capacity, she works under the direction of the Standing Rock Tribal Board of Education, an elected school board, who has three major functions: 1) acts as the advisory school board for the Standing Rock Community School, reviewing all Bureau actions; 2) acts as a liaison between the schools on the reservation and the Standing Rock Sioux Tribal Council; and 3) administers educational programs (such as Title I) contracted by the Standing Rock Sioux Tribe. Stop

I am sure that all of Committee members are aware of the dismal statistics in areas of social, health, and economics with which we Indians are identified: high unemployment rate, alcoholism, juvenile delinquency, lengthy arrest records, a low educational achievement level, a shortened life span, a high suicide rate, to name a few.

I will not dwell on these statistics, for though they be valid and serve a purpose, they should not serve to deter us from our objective - a good educational program for our Indian children. It is too easy for us to say: "Look at these statistics; no wonder we can't have a good educational system. Look what we have to work with." We would then be laboring under the assumption that social and economic ills must be cured before we can provide a good educational program for all our Indian children, while we should be a part of the remedy.

To me there is significance in the fact that a high school drop-out on the Standing Rock Reservation is more likely to be a student who is one-half or more degree of Indian blood. Such a student is probably more likely to feel alienated by our educational system, a system that definitely does not offer the hope and promise of a better life, particularly to him whose parents and other relatives are more likely to be included in those dreary statistics on which I promised not to dwell. At any rate, his example of a successful Indian is one who has just enough Indian blood to qualify for Indian benefits, and who has been for all intents and purposes, assimilated into the white world.

I feel that our greatest challenge in Indian education is to prepare our students for the "real world", the modern world of competition and achievement, but with the realization that we must prepare them to meet the challenges of the white man's world as Indians. Educators must realize that there is an Indian world as valid and as strong as the white man's world, and more real to our Indian students. It is with consideration for both of these worlds, and with an understanding that in many ways both worlds are alike, that we should prepare our students.

In preparing his people to meet this challenge, Sitting Bull said: "I have advised my people this way, 'When you find anything good in the white man's road, pick it up. When you find something bad, or turns our bad, drop it and leave it alone.'"

Sitting was was said to have had such intense hatred for the white man that he resisted any attempts at Christianizing his people or educating them in the white man's way, but he apparently felt that they would encounter "something good in the white man's road" -- something to insure survival. Survival was of greatest concern to our Indian leaders. Their hope and their prayer was, in the words of Black Elk, an Oglala holy man, "That my people may live." Certainly education is the basic tool necessary to insure survival in the fullest sense of the word, not just an existence without pride and dignity.

For the Sioux, or perhaps I should say the Plains Indians, education was a matter of the greatest urgency when they could no longer depend on their former skills for survival. Without their weapons and horses to hunt the buffalo that had all but disappeared, what was left? What wasn't taken by force was taken by other devious means because the Indians didn't understand the white man's language or his way of doing business. They quickly realized then that a good education was their last line of defense and they expected that it would give them not only a means of survival but also a means of protection.

The Sioux, from the time they were confined to reservations, placed a high priority on education and they expected a great deal from it. We in the Bureau of Indian Affairs have quoted the dollar value - 1/3 of the Bureau of Indian Affairs budget to indicate the priority that we placed on education. Soon the Indian people were asking, "What are we getting for our money?" To me this is the brightest spot in Indian education today - the new Indian awarenss.

Therefore, the reorganization of Indian education in the Bureau of Indian Affairs has a sound basis upon fact - mainly that the Federal/Tribal linkage must be brought closer to the problem point, to the Indian people. In the streamlining of the Bureau of Indian Affairs, educational delivery system we can identify certain overt benefits at the ouset, including:

- funding simplification directly to the Agency level
- transfer of management prerogatives to the Agency rather than the Area level
- assumption by the Agency for evaluation - a reasonable assignment, considering propinquity
- staff selection responsibility (from the existing inventory) transferred to the Agency

Assuming that the Bureau of Indian Affairs will continue to operate the Bureau of Indian Affairs schools on the Standing Rock Reservation, the biggest obstacle in this reorganization is the recruitment and selection through the Civil Service system. So long as we have Federal employees, we must abide by the rules and regulations of the Civil Service Commission: positions must be classified; then, applicants for these positions must be certified, that is they are given a numerical rating in the grade level for which they qualify; then the names are put on a certificate or list of eligible from which we can then make a selection. If we had all Indian candidates, this problem would be alleviated but not entirely because of Indian preference. Should a Tribe elect to contract for the operation of Bureau of Indian Affairs schools, the problem would be eliminated.

I will not attempt to go over this draft point by point in this presentation, but I have some general comments, suggestions, and a list of needs which might develop into recommendations.

We need overall "performance specifications" for Indian education based upon a "real world" needs assessment - that real world I mentioned earlier in this testimony, which takes into consideration both the modern world and the Indain world. This specification would define what is needed for the education of Indian people and standards for academic achievement as set by 1) parents, 2) local school boards, 3) tribal government, and 4) federal government. Against this specification various program designs could be overlaid to determine their suitability, indivually and in synchronization with each other.

What is the "Indian world?" On a small scale it could be a reservation where we have our own government, laws and our society; on a larger scale it is those areas of mutual concern to all Indians. The curriculum must reflect what is happening in this Indian world -- the various forms of government, the role they play and how they influence our lives; the services they provide. Probably one interesting way of doing this would be to sponsor a Career Day where students would assume the role of various Tribal and Bureau of Indian Affairs officials. In our present system, senior students are transported to a city or town adjacent to the reservation where they learn of the various roles of city officials and businessmen. This should continue. This is just an example of what I mean by teaching them about both worlds.

Federal overhead is high and many times the overhead is included in determining the per pupil cost for Bureau schools. The fact that ALL this funding is NOT utilized by local schools is often overlooked!

A per pupil cost allotment formula should be developed for determining the amount of funding for Bureau schools. This then should be directed to the local schools. This formula should be developed and based upon extenuating circumstances such as 1) isolation factor, 2) boarding situation, 3) service area, 4) social detriments, and 5) economical status.

Funding must also be provided for facilities. The school facilities on Standing Rock are outdated and "obsolete" in terms of contemporary educational trends.

School facilities must include staff housing, as housing for teachers in reservation schools is NOT otherwise available. Providing housing for teachers is a "selling point" in recruiting well-qualified teachers.

We have the same concern as all schools in the nation when it comes to basic skills - reading, writing, and mathematics. I don't know how effective remedial programs are but there must be a concentrated effort between the regular classroom teacher and the remedial teachers to correct the deficiencies in the area of basic skills. All teachers must be held accountable to assure that the students master the "three r's".

Provisions within the Bureau of Indian Affairs must be made for continued input from communities and parents. To obtain this input Advisory School Boards for Bureau schools on the Standing Rock Reservation were organized in 1971.

These boards have been very active and have been responsible for such basic requirements such as 1) the development of local school policy; 2) completion of local school needs assessment; 3) upgrading the quality of education through revising curriculum standards and screening employee applications, etc.

The organization of the boards has "spurred" community interest and most important, a communication link between the school and the community.

Historically, Indian communities have been alienated from the school or vise-vera. This gap has been bridged and boards must be continued.

Again, funding is an obstacle - it is necessary to have operating expenses for these boards.

There is one area of concern which must be addressed. Many Indian students on our reservation attend public schools; however, because the minimal amount of taxable land is the school district, the future of these schools is questionable!

As these students are those who fall under the definition "Bureau Responsibility", it is very vague as to who is responsible for the cost of education and this must be clarified.

If public schools are to receive Federal funding for the education of Indian children, and we feel they must, they must be held accountable. A system of accountability might be developed to include need analysis; objectives (clarity and measurability); program plan; program evaluation; program dissemination; establishment of Local Indian Education Committees; number of Indian children served; Tribal Council support in the form of a resolution, etc.

In conclusion, to upgrade Indian Education community input must be continued and this input must be included in the decision-making process.

We commend Congress for recognizing this and we will make every effort to assure that this continues.

I. GENERAL BACKGROUND DATA

A. Geographic Location:

The Standing Rock Sioux Reservation, which was established in 1873, straddles western North Dakota and South Dakota, with approximately one-third (1/3) of the land area lying in North Dakota. The original reservation boundaries encompass 2,332,432 acres. However, as a result of Federal withdrawals and individual land sales, only 848,609 acres remain in Indian hands. (see attachment number one for a map showing the locale of the Standing Rock Reservation in the states of North and South Dakota.)

Approximately 8,100 members are enrolled in the Standing Rock Sioux Tribe of whom just under 5,600 reside on, or adjacent to, the reservation. Of this resident population, 59.5 percent are twenty-one (21) years of age or younger. A strikingly high 49.7 percent are under the age of sixteen (16)!

The Standing Rock Reservation contains seven long-established communities on the Reservation and the sub-district of McLaughlin, South Dakota, which was recognized under a Federal Court Order in 1973. According to the 1977 census completed by the Standing Rock Sioux Tribe, the community population statistics are as follows:

	Total Indians	Standing Rock Enrollees
PORCUPINE DISTRICT	191	142
Porcupine Community & Rural	128	
Selfridge	52	
Morristown	9	
Keldron	2	

	Total Indians	Standing Rock Enrollees
CANNONBALL DISTRICT	819	608
Cannonball Community & Rural	771	
Solen	48	
FORT YATES DISTRICT	1,784	1,324
North Dakota Sub-Total	2,794	2,074
KENEL DISTRICT	263	217
WAKPALA DISTRICT	671	520
LITTLE EAGLE DISTRICT	1,232	850
Little Eagle Community & Rural	707	
McLaughlin	525	
BULLHEAD DISTRICT	651	498
Bullhead Community & Rural	539	
McIntosh	109	
Morristown	1	
Watauga	2	
South Dakota Sub-Total	2,817	2,085
RESERVATION TOTAL	5,611	4,159

As noted in the above statistics, Fort Yates, North Dakota, is the largest of the reservation communities; and being the largest, is the center of reservation activity. The central offices for the Tribe, Bureau of Indian Affairs, and the Public Health Service Hospital are located here.

Transportation facilities are limited on the reservation. A thin network of federal and state highways traverse the area; however, with the exception of Fort Yates, the Indian communities fall outside this road system. There is no public transportation system linking to the reservation or to the communities.

B. Economical Background:

Until recently, agriculture has been almost the sole productive economic base for the reservation with livestock ranching being the primary reservation agricultural operation.

Although agriculture remains very important to the Standing Rock economy, new economic possibilities have begun to develop during the past few years. However, the overall economic situation on Standing Rock remains bleak. While Tribal development activities are beginning to make a difference, individually-owned enterprises, aside from predominantly very small livestock operators, are still few in number.

Median family income for Indian families is estimated at $3,333.00 as opposed to $7,657.00, the median family income for non-Indian families on the reservation. Over 50 percent of the reservation income is derived from the salaries of those employed by the Bureau of Indian Affairs; Tribal Operations; Public Health Services; Office of Native American Programs; and various Title programs. Indeed, it is estimated that about 80 percent of all reservation income is derived from either Federal salaries or welfare payments. In connection with the latter, nearly three-fourths (3/4) of the resident population on Standing Rock receives some type of welfare assistance at some time during the year.

Since there is still little permanent employment to be found, unemployment figures ranges from 40 percent during the spring and summer months to 70 percent in the later fall and winter months.

C. Existing Social Problems:

Various social problems remain widespread on the reservation. Reflected in the social situation are poor Federal-Indian relations which existed for all but the past few years, as well as the current economic situation.

Mentioned earlier was the pervasive unemployment and reliance on welfare characterizing the Standing Rock Reservation. When the caseload of the Sioux County Welfare and Bureau of Indian Affairs Social Services is coupled with a persisting lack of employment opportunities, it is not difficult to see that welfare has become a way of life for many of the adults on the Standing Rock Reservation.

Alcohol is perhaps the single most important problem among the people at Standing Rock. Widespread use of alcohol is evidenced among both male and female adults and, more serious, among the young people of the reservation. The average age for beginning the consumption of alcohol is between nine and ten years of age, with 55 percent of the boys and 45 percent of the girls this age reporting that they drink. Furthermore, alcoholism on the part of younger people is closely linked to juvenile delinquency on the reservation.

Juvenile problems are a major concern on the Standing Rock Reservation. Statistics of 1975 indicate that 338 juvenile cases were referred to Tribal Court. Our juvenile delinquency rate is decreasing but remains high as compared to that of the predominant society. Alarmingly, 90 percent of the 1975 cases were a direct result of alcoholism. Reports by parents and school personnel in the seven communities indicated that the great majority of the delinquents were not even being brought before the Court.

Following is a breakdown of the arrests of juveniles on the Standing Rock Reservation for the past three years:

Fiscal Year	Male	Female	Total
1974	138	78	316
1975	261	111	372
1976	310	85	395

Foster Placement - five years ago 27 percent of the children from this reservation were in some type of foster placement. We feel we have stemmed the tide.

Other equally bleak statistics could be sited in the areas of illegitimacy, marital breakups, and suicide, but what has been said above is sufficient to give a sense of the social environment at Standing Rock.

D. Educational Background:

The educational system on the Standing Rock Reservation is most unique and difficult in that it involves the Bureau of Indian Affairs, a Cooperative School Agreement (between the Bureau of Indian Affairs and the Public School District), and Public School District schools in the states of North and South Dakota.

In addition, there are children attending Bureau of Indian Affairs off-reservation boarding schools in three states, parochial schools (including the Mormon Placement Program), and tribally-controlled schools such as the Pierre Indian Learning Center in Pierre, South Dakota.

During the 1976-1977 school year, approximately one-thousand eight-hundred (1,800) children from Standing Rock were enrolled in elementary and secondary schools on or adjacent to the reservation. These schools are as follows:

Name of School	Type/ School	Location	Enrollment
Bullhead Day School (K-8)	B.I.A.	Bullhead, SD	95
Cannonball Public School (K-6)	Public	Cannonball, ND	99
Little Eagle Day School (K-8)	B.I.A.	Little Eagle, SD	108
Solen Public School (1-12)	Public	Solen, ND	121
McLaughlin Public School (K-12)	Public	McLaughlin, SD	223
McIntosh Public School (1-12)	Public	McIntosh, SD	66
Wakpala Public School (1-12)	Public	Wakpala, SD	160
St. Bernard's Mission (1-6)	Parochial	Fort Yates, ND	85
Standing Rock Community School:			646
Elementary School (K-6)	B.I.A.	Fort Yates, ND	289
Junior High School (7-8)	B.I.A.	Fort Yates, ND	131
Senior High School (9-12)	B.I.A.	Fort Yates, ND	226
Off-Reservation Boarding Schools			200
TOTAL INDIAN ENROLLMENT			1,803

School records indicate that a majority of the Indian students enrolled in the various schools are six months to five years below the national average in reading vocabulary, reading comprehension, mathematic fundamentals, and language arts. These statistics may be attributed to the lack of interest due to irrelevant curriculum, inappropriate evaluation measures, poor school attendance, and inconsistent behavioral objectives.

As a student only spends one-tenth (1/10) of his/her time in the school environment, much of the student's achievement or failure to achieve can be attributed to the economic and social conditions which are existant on the reservation.

A needs assessment was completed by the Standing Rock Tribal Board of Education in 1975 to determine the educational needs on the Standing Rock Reservation. Following is a summary of the results from the eight districts on the reservation:

	Summary of Rankings		
Variable	1	2	3
Basic Skills	264	205	259
Indian Culture Classes	180	203	259
Organization	112	237	263
Staff	247	196	169
Discipline	235	202	175

As can be seen from the preceding table, the majority of respondents from throughout the reservation indicated that Basic Skills was their first or second priority. Discipline rated next in priority. This finding might be misleading in the sense that the bulk of those rating Discipline the highest came from the one community with the largest sample. Thus, while Discipline is of high concern in that community, it does not reflect a reservation-wide attitude. Staff is shown to be the next highest matter of concern with Indian Culture

Classes ranking fourth. Last in overall concern was Organization.

In addition to the general needs survey completed by the Standing Rock Tribal Board of Education, the Bullhead Day School, Bullhead, South Dakota; the Little Eagle Day School, Little Eagle, South Dakota; and the Standing Rock Community School, Fort Yates, North Dakota, have completed detailed "indepth" need analyses.

II. BUREAU SCHOOLS ON THE STANDING ROCK RESERVATION

A. Standing Rock Community School - Fort Yates, North Dakota:

The Standing Rock Community School began to serve the reservation in 1934. This school is operated through a cooperative school agreement among the Bureau of Indian Affairs, Fort Yates Public School District, and the Standing Rock Sioux Tribe, with the Bureau of Indian Affairs maintaining overall responsibility.

The school also includes boarding facilities. The dormitories were established in 1939. Presently, the dormitory services approximately 60 students, employing twelve personnel. The enrollment of the dormitory for the past five years is as follows:

1976-1977 school year - 67 students
1975-1976 school year - 73 students
1974-1975 school year - 84 students
1973-1974 school year - 87 students
1972-1973 school year - 92 students

Bus service is provided for three districts on the reservation - Porcupine and Cannonball, North Dakota and Kenel, South Dakota. (The Standing Rock Community School is the only school available to the residents of Porcupine and Kenel.)

The school is an accredited institution through the State of North Dakota, presently maintaining a level two accreditation standard. (The level two standard is due to facilities.)

The curriculum for the elementary student includes reading, language arts, math, social studies, science, physical education, art, and music. These subjects are established and provided in compliance with the North Dakota curriculum guidelines/standards.

The academic achievement of the students is comparable to that of all minority students - six months to five years below grade level.

The elementary school has library facilities; however, presently it is not staffed. The librarian position is a Bureau of Indian Affairs position. Librarians ARE NOT available through the Teacher Civil Service Commission, Albuquerque, New Mexico.

An important note is that the elementary school presently is utilizing one substitute teacher (a retired teacher residing in the area) as there remains a Bureau of Indian Affairs teaching vacancy. Will this have an impact on our students?

The curriculum for grades seven through twelve includes science, math, reading, social studies, business education, physical education, music, English, vocational agriculture, home economics, driver's education, biology, chemistry, geometry, albegra, sociology, history, current events, shop, and problems of democracy. Again, the content is organized and provided in compliance with the North Dakota curriculum guidelines/standards.

The present facility is grossly inadequate and, as mentioned previously, is the reason the curriculum cannot be expanded. Additional facilities, including staff housing, are necessary to provide QUALITY education.

The planning for facilities began in 1969. The Standing Rock Secondary School has been funded for construction! The contract has been awarded; and the contractor has been working on the site. However, the funds were ONLY adequate for the construction of the Academic Complex, Dining Facilities, Theatre, and Gymnasium.

To fully complete the Standing Rock Secondary School, the following must be funded for construction: swimming pool, vocational technology and music complex, water treatment plant, staff housing, home-living units, and alternates on the present construction contract underway.

The data outlining the crucial need for these facilities has been presented before Congressional Sub-Committee for the past five (5) years.

The enrollment, number of students transferring, graduates, number of teachers, and achievement test percentiles are outlined in the attached chart. The chart provides a bleak picture of what the school is or is not providing for students!

The need analysis completed for the Standing Rock Community School is very brief and only indicates the general need areas. In the need analysis completed, each discipline was addressed according to principles, nature of the area of learning, evaluation, plans for improvement, and current status scale. The need analysis is very comprehensive and over two-hundred pages in volume. Due to the large volume, all information is not included and the summarization is presented.

The need analysis indicates the following general need areas:

1. Community participation
2. Individualized education program
3. Curriculum revision
4. Development of and implementation of special education programs
5. Bilingual/bicultural education
6. Additional staffing - academic areas and special education
7. Development of and implementation of health programs

School Year	School Enrollment 7	8	9	10	11	12	# Students Transferring	# Students Leaving School	# Graduates	# Teachers Indian	# Teachers Non-Indian	# Counselors Indian	# Counselors Non-Indian
1976-77	103	66	99	79	57	39	32	28	29		23		2
1975-76	79	77	119	92	65	43			35	1	23		2
1974-75	68	82	117	96	56	43	53	21	34	0	23		2
1973-74	74	102	95	78	65	43			34	1	24		2
1972-73	68	81	78	73	49	43	62	21	33	1	22		2
1971-72	73	57	64	50	37	43	50	32	43	1	25		2
1970-71	56	56	88	76	67	49	40	29	39		20		1
1969-70	53	56	72	71	71	51	40	46	40		20		1
1968-69	66	50	65	72	57	40	52	24	37	2	19		1
1967-68	37	48	96	71	63	50	28	20	41	2	19		1

B. Bullhead Day School, Bullhead, South Dakota, and Little Eagle Day School, Little Eagle, South Dakota:

The elementary schools of Bullhead and Little Eagle, South Dakota, began to serve those communities in the late thirties.

The enrollment for Bullhead and Little Eagle Day Schools for the past ten years is as follows:

1. Bullhead Day School:

	K	1	2	3	4	5	6	7	8	Total
1976-77	14	10	6	11	4	10	13	11	6	85
1975-76	13	15	6	12	6	10	13	11	5	91
1974-75	8	15	7	10	16	11	11	3	7	88
1973-74	17	8	10	22	11	10	5	5	6	94
1972-73	10	16	19	10	13	10	10	10	9	107
1971-72	15	15	18	14	9	13	13			97
1970-71	13	12	11	5	11	5	4			61
1969-70		27	13	15	6	5	8			74
1968-69		28	15	12	9	15	9			88
1967-68		38	13	10	15	8	1			95

2. Little Eagle Day School:

1976-77	10	11	15	10	14	13	9	15	14	111
1975-76		9	18	14	6	16	9	16	18	106
1974-75	11	7	16	12	6	14	7	13	18	104
1973-74		18	15	15	15	10	16	19	14	122
1972-73		19	21	16	10	17	18	16	15	132
1971-72		24	18	8	18	12	18	16	12	126
1970-71		23	15	20	15	16	13	10	10	122

	K	1	2	3	4	5	6	7	8	Total
1969-70		19	19	15	17	13	12	11	7	113
1968-69		22	22	18	15	12	11	7	8	115
1967-68		21	26	14	13	13	8	10	2	107

The curriculum for the elementary students includes math, reading, language arts, social studies, and science. Dependent upon available funding through compensatory education programs, art, Indian Studies, phsycial education, and/or music may be offered.

Bureau funding is not available for these activities although the South Dakota Department of Public Instruction requests that these subjects be offered! Counselors also are not available!

Projected enrollment for a five-year span is 219 for Bullhead and 237 for Little Eagle.

The present facilities at the Little Eagle Day School and the Bullhead Day School with grade levels kindergarten through grade eight are grossly inadequate to meet present and future educational demands due to age, type of construction, and the existing structural condition of the buildings.

The Chief, Division of Education, Aberdeen Area Office, Aberdeen, South Dakota, conducted an evaluation of the Bullhead and Little Eagle Day Schools on April 12, 1977. This report demonstrates the vital need of NEW educational facilities to upgrade the quality of education.

The present facilities are obsolete in terms of contemporary educational techniques and standards. At the Little Eagle Day Schools classes are combined for kindergarten and first grade; second and fourth grade; sixth and seventh grade; with third grade housed in the Title I building. Lack of space for implementing innovative learning jeopardizes the total education program.

The existing facilities deprive the enrollees of attaining even the minimum educational objectives due to the lack of a diversified curriculum and special programs available in other Bureau of Indian Affairs and public schools.

A movement toward consolidation and busing to nearby elementary schools would meet with strong opposition due to inclement weather conditions in all seasons and loss of instruction time. The relatively low rate of achievement of our elementary pupils in basic scholastic skills must be raised in order to combat high drop-out rates.

Our compliance with the State requirements is on a very minimum level. Due to the lack of space, with fifty-two (52) percent of the students in Little Eagle unhoused, only the bare necessities are met. Sixty-five (65) percent of the students in Bullhead are unhoused.

Additional requirements for the Junior High level, such as foreign language, home-making, industrial arts, music, typing, and agriculture are not offered. These courses are of utmost importance for our Sioux students, as most are introductory courses for the secondary setting. Our students presently do not have any introduction to these courses. Consequently, many students do not desire to pursue these offerings when they enroll in secondary schools.

Due to the multiple use of the gymnasium for instruction/recreation/dining purposes, a well-balanced activity program for both boys and girls cannot be implemented. The gymnasium is used for breakfast and the lunch program. This space is occupied from 8:00 a.m. to 4:30 p.m. daily. The alloted time is on an average of thirty minutes per class.

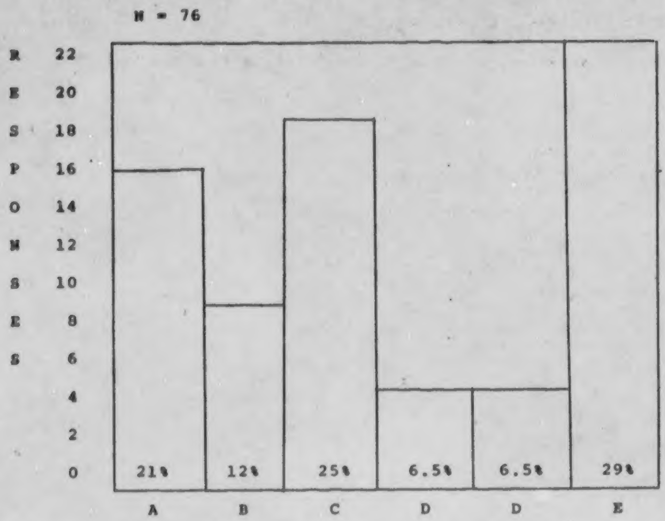
Regular teachers must not be required to assume specified instruction for these courses. Special teachers are needed to provide the highest level of instruction in these areas. Additional personnel needed for each school include guidance counselor, art teacher, music teacher, physical education teacher, learning disability teacher for special education, and speech therapist.

The need survey completed for the Bullhead Day School which was completed on May 13, 1977, indicates that the following are critical need areas which must be addressed. These items received the priority in ranking and in percentage of responses:

1. New facility
2. Additional staff
3. Curriculum
4. Equipment
5. Supportive services
6. Management principles

The following figures represent how the Bullhead community views their needs.

Bullhead School Board, Parent Advisory Council (Title I), Bullhead Day School Staff (Group 5):



	Group	Responses	Percentage
A.	New Facility	16	21
B.	Additional Staff	9	12
C.	Curriculum	19	25
D.	Equipment	5	6.5
E.	Supportive Services	5	6.5
F.	Management Principles	22	29

The need analysis completed for the Little Eagle Day School indicates the following need areas:

1. Developmental needs of students to be housed in a facility. These will include congitive, affective, and psychomotor needs of the students.
2. Development of goals and objectives for life-long learning based on tribal, social, adult, and economic needs and broader societal norms.
3. Community cultural goals or those special tribal needs to be used as design determinants for the requested facility.
4. Curriculum content based on an analysis of items 1-3 above, such as:
   a. CONGITIVE
      - Language
      - Cultural (bilingual)
      - Social (social systems and their maintenance; creative change)
      - Creative/easthetic (environmental considerations)
      - Early childhood education continuum
   b. AFFECTIVE
      - Cultural (humanities-center curriculum; values; character formation)
      - Social (behavior)

  - Creative/aesthetic (traditional and material culture design)
  - Early childhood education continuum

  c. PSYCHOMOTOR

  - Physical development (vocational, recreational, performing arts)

5. Instructional methodology, i.e., specification of how content is to be taught and identification of methods most appropriate for learning styles of student population.
6. Staffing patterns, requirements, adequate position descriptions, recruitment, selection, and evaluation of staff, and on-going in-service training based on analysis of items 1-5 above.
7. Specific planning policy for maintenance and adaption of facility to meet the changing needs of a developing program.
8. Other considerations:
   - a. Provisions for adequate pupil transportation
   - b. Proximity of facility to population served to fulfill role as vital community resource
   - c. Budgetal allowance for on-going training for para-professional and auxiliary staff.

III. EDUCATIONAL PROGRAMS FOR ADULTS

Because of the obvious need for professionally trained people on the reservation, several community members formed a group to investigate the possibility of providing post-secondary training at Standing Rock. In 1968, college classes were first offered by the Division of Continuing Education of Bismarck Junior College (BJC) at Fort Yates, North Dakota.

Fort Yates, located 70 miles south of Bismarck, North Dakota, on the Missouri River, is the administrative center of the Standing Rock Reservation. Agency offices for the Bureau of Indian Affairs and the government offices of the Standing Rock Sioux Tribe are also located in Fort Yates.

The response to these initial classes was very favorable. In November, 1971, a Community College Committee - composed of Standing Rock residents and educational personnel - was formed for the purpose of establishing a learning center for post-secondary education at Fort Yates. The efforts of the Community College Committee were fully supported by a formal resolution passed by the Standing Rock Sioux Tribal Council on April 11, 1972. The Tribal Council, the local governing body on the reservation, is composed of 14 representatives and a Tribal Chairman elected by enrolled members of the Standing Rock Sioux Tribe.

With the help of the BJC Division of Continuing Education, a learning center was established at Fort Yates in the Fall of 1972. In order to insure continuing development and expansion, the Community College Committee was changed to the Standing Rock Community College Board of Trustees and given the responsibility of providing direction for the growth of the center by a Charter granted by the Standing Rock Sioux Tribal Council in September of 1973.

Many of the services provided by Standing Rock Community College are directed toward the needs of the Standing Rock Sioux Tribe, but all classes are available to any resident of the area.

A total of 102 classes were offered by Standing Rock Community College during the 1975-1976 academic year; 41 being available in the Fall semester and 61 in the Spring semester. Of the 41 classes offered in the Fall semester, 31 were held at the main campus at Fort Yates, while 10 were provided at the town of McLaughlin, South Dakota. Of the 61 classes offered in the Spring semester, 49 were offered at the main campus with 11 at McLaughlin and 1 at Cannonball, North Dakota.

Of the 102 classes offered during the academic year, 59 were different courses; within each semester, 33 different courses were offered in the Fall, 40 different courses were offered in the Spring. Included among the courses offered were full year sequences in English, U.S. History, Mathematics, Lakota Studies and Language, and such career oriented courses as Accounting, Typing, Business Machines and Shorthand. In addition to these year sequences, a number of one-semester courses were provided including Introductory Psychology, Introductory Sociology, Social Probelsm, Creative Writing, Art, Introduction to Drama, as well as specialized courses in Lakota Studies.

In order to provide opportunities for as many students as possible, classes were available in the evening as well as during the day. The largest number of classes was offered at 1:00 p.m.; the great majority of courses were offered once weekly in a three-hour session.

Since its inception, the enrollment in Standing Rock Community College classes has consistently increased. The following chart shows the increasing enrollment for a four-year period:

	Part-Time	Full-Time	Indian	Non-Indians	Adult Educ.	FTE
1972-73	47	0	44	3	80	29
1973-74	91	16	89	18	84	71
1974-75	95	22	100	17	89	73
1975-76	73	67	86	9	94	107

Standing Rock Community College has also offered many short term training projects which meet the needs of various groups in the community such as Indian Farmers, Ranchers, Managers, etc., which are not reflected in credit enrollment.

Potential enrollment for Standing Rock Community College is difficult to predict because of fast changing patterns of participation in higher education among American Indians. Standard population growth rates also do not apply to Indians.

The following is an estimate of enrollment for Standing Rock Community College for the next six years, 1978 through 1984, based upon high school enrollment, state-wide projections, average High School Equivalency degree completion rates, and previous enrollment patterns.

	Part-Time	Full-Time	FTE	Special Students (Adult Ed. etc.)
1977-78	100	80	115	100
1978-79	110	85	120	110
1979-80	115	100	140	130
1980-81	125	110	155	140
1981-82	125	115	160	150
1982-83	125	115	160	150

Projections of enrollment at Standing Rock Community College will not be as stable as projections of enrollment for the State of North Dakota as a whole. Many other issues such as changing economic factors will have great influence over enrollment. The intensified problems faced by the tribe might drastically alter the course offerings and shape of the Community College.

Adult Basic Education courses are offered throughout the reservation through a contract between the Bureau of Indian Affairs and the Standing Pock Sioux Tribe.

This program has been highly successful and provides the opportunity for many Standing Rock residents to earn a General Equivalency Diploma.

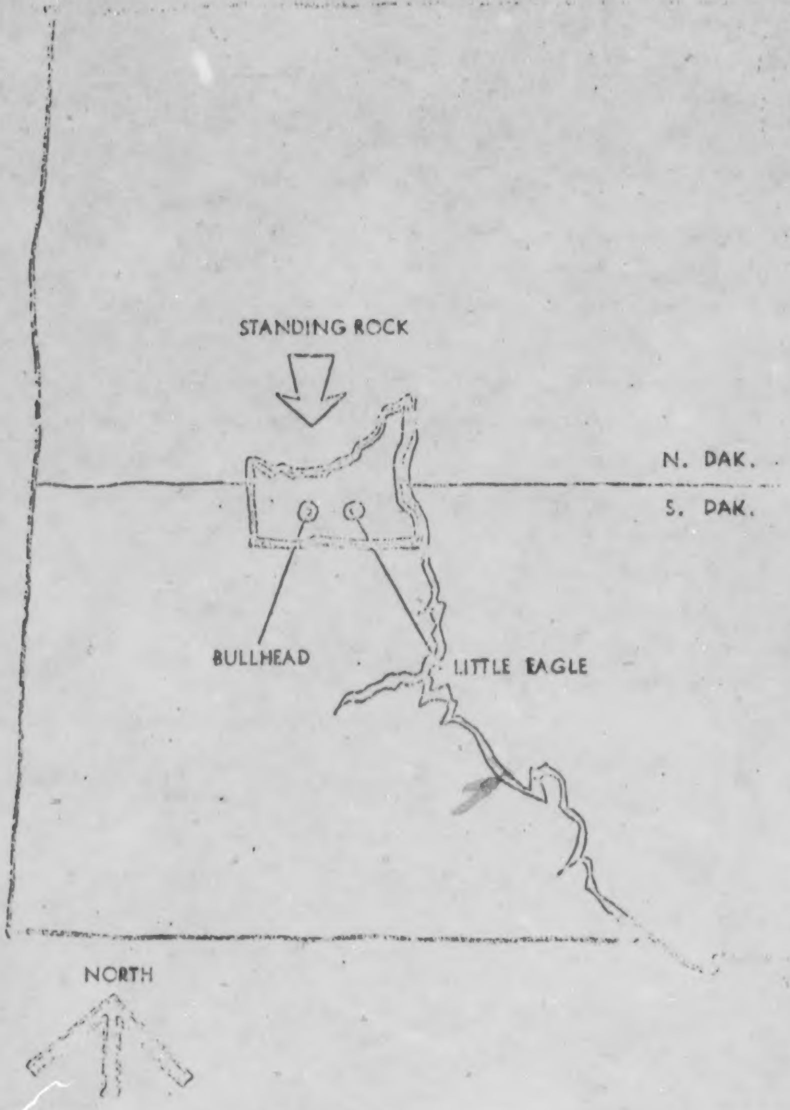
Following is a chart, indicating the number of students enrolled over the past five years.

1976-77	16 enrolled	Average Age of Graduates - 19
1975-76	94 enrolled	Average Age of Graduates - 19
1974-75	89 enrolled	Average Age of Graduates - 19
1973-74	84 enrolled	Average Age of Graduates - 19
1972-73	80 enrolled	Average Age of Graduates - 19

ATTACHMENT # ONE (1)

Site location and Detail

[illegible] site location within reservation for the project


STANDING ROCK
N. DAK.
S. DAK.
BULLHEAD
LITTLE EAGLE
NORTH

STATEMENT OF SHIRLEY PLUME, SUPERINTENDENT, STANDING ROCK AGENCY, BUREAU OF INDIAN AFFAIRS, FORT YATES, N. DAK.

Ms. Plume. Thank you, Mr. Chairman.

I am Shirley Plume, an enrolled member of the Oglala Sioux Tribe from the Pine Ridge Reservation. I have spent the past 15 years on the Standing Rock Reservation as a Bureau of Indian Affairs employee.

For the past 4 of these 15 years, I have served as agency superintendent for the Standing Rock Sioux Tribe. As agency superintendent, I am responsible for the administration of all Bureau of Indian Affairs programs on the reservation and these include:

Education, including the operation of elementary and secondary schools; funding for higher education; social services; law and order; employment assistance; credit; land operations; realty; roads; plant management; and administration.

I am a career employee with 35 years of service to my credit, and some would say, to my shame. Of these 35 years, I have spent 17 with the Branch of Employment Assistance, where we had the responsibility of helping adult Indians, ages 18 to 35, enter the labor market in urban areas through training and/or employment.

This experience with the Branch of Employment Assistance helped to stimulate in me a new interest in Indian education as I gained a new insight in the role of education in Indian life. I have, therefore, given the matter of Indian education a great deal of thought.

I am appreciative of this opportunity to participate with you today in sharing these thoughts and in discussing draft legislation to reorganize Indian education in the Bureau of Indian Affairs.

I have with me Mrs. Emma Jean Blue Earth, an enrolled member of the Standing Rock Sioux. Emma Jean was a high school student when I first came to the Standing Rock Reservation. Emma Jean is the director of the Standing Rock Tribal Board of Education and has served in that capacity for the past 3 years.

In this capacity, she works under the direction of the Standing Rock Sioux Tribal Board of Education, an elected school board, who has three major functions:

1. Acts as the advisory school board for the Standing Rock Community School, reviewing all Bureau actions;
2. Acts as a liaison between the schools on the reservation and the Standing Rock Sioux Tribal Council; and
3. Administers educational programs, such as Title I, contracted by the Standing Rock Sioux Tribe.

Emma Jean and I come from a country that witnessed the loss to the U.S. Army. I mention this because this had a direct bearing on what the Sioux felt about education. Education to the Sioux was a matter of utmost urgency, when they realized that they could no longer depend on their former skills for survival.

Education continues to play a significant role, and we continue to place a high priority on education.

We, in the BIA, have often quoted the dollar value, one-third of our budget, to indicate the value we place on education. But for the past several years, the Indian people have been asking, "What are we getting for our money? This is not enough for us to meet the high value placed on this priority."

The Indians simply want more say in the operation of their schools, in Indian education. It, therefore, seems that the reorganization of Indian education in the BIA has a sound basis upon fact, mainly that the Federal tribal linkage must be brought closely to the Indian people.

In the streamlining of the BIA delivery system, we can identify, certainly, other benefits at the outset, including funding simplifications directly to the agency level; transfer of management prerogatives to the agency, rather than the area level; assumption by the agency of evaluation, staff recruitment and selection.

In other words, it would seem to facilitate maximum tribal or local input.

The biggest obstacle to local control has been the recruitment and hiring of teachers and administration through the Civil Service system. We presently have five teachers—five vacancies for teachers and one librarian. But we have experienced a great deal of Indian input through these types of boards that have been established. Indian input would help.

To help our students meet the challenge of the world as Indians, we need to recognize that there is an Indian world as valid and as strong as the white man's world, and we need to prepare our students accordingly.

In doing so, we need overall "performance specifications" for Indian education based upon the "real world" needs assessment, and this "real world" takes into consideration both the modern world and the Indian world.

We are happy to see an allotment formula, as we do see this being necessary for accountability and control within our Bureau schools. However, we do have some concerns for the years of implementation of the organization, and the cost factors that might be involved when this is first being implemented.

As you are well aware, Federal overhead is high and many times the overhead is included in determining the per-pupil cost for Bureau schools. The fact that all this funding is not utilized by local schools is often overlooked.

This has been mentioned before, and I will mention it again. Our greatest need is facilities, and some of the things that this bill does not address, such as funding for those facilities, and I would like to see funding for the school boards, to insure continuity of Indian input.

The bill does not address children who are not in Bureau schools, some that fall between the cracks, and some other systems. It is not clear what children we are responsible for. We have so many public schools.

Mr. BLOUIN. Your concern regarding non-BIA schools is valid. That is why the first part of H.R. 9157 addresses those public schools on or near Federal trust property receiving Public Law 874 moneys because of those Indians living on such property. Our bill would grant the tribal government or their school board signoff authority over those 874 funds attracted to the school because of Indian pressure. The bill would assure that there would be Indian input into the basic educational program of that school. The input would be assured in that the tribe or its school board would have to sign off on the basic educational program of that school.

If they elect not to sign off on the program, they could—following a structured process—opt to either have the BIA run their school or contract with the Bureau to run their own school. This would essentially be done with those dollars heretofore provided to the public school through 874 funds. If this would occur, the public school would obviously lose those 874 dollars which were generated by the presence of Indian students.

The area of Indian education, which still needs to be addressed, is in your urban centers, where there are Indian dollars attracted, but where there is no clear definition as to the tribal relationship and so on. The problem with this is that you do not know where to begin.

Ms. PLUME. I will give you an example. I have in mind two schools on the Standing Rock Reservation, one on the North Dakota side, and the other on the South Dakota side. The school that is on the South Dakota side is about 98 percent Indian, and it is a public school.

When they run out of funding, they come to the Bureau and say: "What can you do for these Indian students?"

Mr. BLOUIN. Where you have 95 percent Indian population in the public school, under our proposal, that school and about 98 percent of its budget would be Federal moneys attracted right now. I would guess that under present law, at the moment, those schools probably get a tremendous amount of aid, in the way of Federal dollars that would come into that school as a direct result of the presence of those Indian children.

Now, remember, as I just indicated, the tribe or its designee would have sign-off authority over the basic education program, financed to a large degree because of Indian students. If they didn't sign off, there is a system established that would allow them to actually, elect to have the BIA take over the school or contract to run their own school.

Ms. PLUME. There is not enough money in there to operate these schools.

Mr. BLOUIN. This bill has an open-ended authorization. There is as much funds as is necessary to fund that. As I said, let us dream for a while, and assume that this is possible.

Ms. PLUME. The tribes are going to buy that?

Ms. BLUE EARTH. Yes, 874 funding would be adequate. The problem that Ms. Plume mentioned would be taken care of. But within the past couple of years, the problem has come from the reduction of the Johnson-O'Malley operational support money. This is being cut one-third annually, and we are depending very heavily upon that operational support. It has to aid the 874 money to carry out the entire cost of the school.

But if the 874 funding, like you say, is enough, that probably would be alleviated.

Mr. BLOUIN. Effectively, what we are doing is establishing a basic funding mechanism, where, through this legislation, we pick up the whole tab. We do not relieve the States of their responsibilities, and if they are supplying money through a foundation program, they have to continue to supply that much. But in terms of everything else, we make sure that there are, at least, so many dollars as are necessary to meet the costs of basic educational needs in that area.

We intend to also write this as a supplemental program to title I and title IV, all of them, and give the same kind of sign-off authority to the tribal council or the school board, or the school board designee, so that they would have absolute control over those monies, over, primarily, the program, which I think is the real concern, to make sure that the program is tailored to meet the needs of the Indian students.

This guarantees them the power to make their philosophy stick. This is what we are trying to do at this point.

Larry, why don't you go through your testimony. I am going to go and vote, and I will take your testimony with me and read it on the way. We have two votes, and it may be 20 minutes before I get back. When you get done, the staff will have some questions, and continue until I get back, and we will finish up from there.

[The prepared statement of Mr. Holman follows:]

OVERSIGHT HEARINGS ON INDIAN EDUCATION

TESTIMONY

PRESENTED TO

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
SUB-COMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION

PREPARED BY

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
NAVAJO AREA
EASTERN NAVAJO AGENCY
BRANCH OF EDUCATION
LARRY D. HOLMAN
EDUCATION PROGRAM ADMINISTRATOR

September 28, 1977

Mr. Chairman and Members of the Committee:

I am honored to be here today to present testimony relative to the proposed concepts for consideration as legislation which, if enacted, would reorganize the direct educational service system of the Bureau of Indian Affairs resulting in the improvement of Indian Education.

The proposed concepts that I will address were obtained from documents titled, "Draft Legislation Providing for Reorganization of BIA Schools," dated September 13, 1977, which was prepared by this committee's advisory study group on Indian Education and joint testimony of: the Honorable Michael T. Blouin, Chairman, Advisory Study Group on Indian Education of the Committee on Education and Labor; the Honorable Albert H. Quie, Ranking Minority Member Committee on Education and Labor before the Committee on Post Office and Civil Service Hearing on Non-Indian Retirement, July 26, 1977.

The latter document contains recommendations which I presume were formulated into the concepts presented in the September 13, 1977, draft legislation document.

The recommendations submitted to the committee on Post Office and Civil Service by Congressman Blouin and Quie I submitted for review and comment to our Agency Principals and School Board members. Their consensus of opinion is the foundation upon which I will base my specific comments relative to the draft legislation document of September 13, 1977.

Thus, the following comments and recommendations are offered regarding the draft legislation document of September 13, 1977:

A BILL

To reorganize the operations of the Bureau of Indian Affairs for the purpose of improving Indian educational services.

(a) No comments

(b) We believe this section needs further clarification in that the specific divisions of the Bureau and position titles need to be identified that are involved in education functions to enhance responsibility and accountability. We also believe that education personnel located in area offices should also be required, upon request, to provide necessary technical assistance to agencies as well as individual schools.

(c) We believe this section could be strengthened by the addition of a sub-section (4) which would require education personnel located at agencies to provide technical and coordinating assistance in areas related to curriculum design and implementation.

IMPLEMENTATION OF TRANSFER

Sec. 2. No comments

ALLOTMENT FORMULA

Sec. 3. (a) No comments

(1) No comments

(2) No comments

(A) No comments

(B) We believe this sub-section could be strengthened by the addition of language that would provide an equitable funding differential to offset present formulas as received by the Bureau from other legislative appropriations such as P.L. 94-142 which only allows twelve per-cent (12%) of the school population to qualify. We believe that our students are not equivalent to the national student population in terms of academic attainment, while Indian student potential is equivalent, their needs are greater in terms of the educational deficiencies addressed by the aforementioned Public Laws.

(3) We believe this sub-section needs strengthening in that Federal School System administrated by the Bureau must receive funding that exceeds funds provided by states for the education of Indian students because one of the criteria for admission to a Bureau school is that the Indian student is two or more years academically retarded in relation to national school achievement norms. Thus, the Bureau must undertake vigorous and specialized programs which are, of course, more costly to remediate the academic deficiencies evidenced by Indian students.

(B) No Comment

UNIFORM DIRECT FUNDING AND SUPPORT

Sec. 4. The concept of direct funding has merit and should be implemented. However, the method of implementation is of some concern in that it should be done in such a manner which will not require additional staff at small and intermediate size schools or schools that are isolated. Principals have expressed concern over the fact that the majority of their time might be required to accomplish this endeavor instead of being able to devote their full concentration toward alleviating academic deficiencies in their students. They are afraid of more red tape and time consuming chores not directly related to the learning process of the student and, in many cases, could become cumbersome enough to interfere or hinder the operation of the academic program.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

Sec. 5 Excellent

EDUCATION PERSONNEL

Sec. 6 (a) We are in full support of this section. The Committee must be advised that any arbitrary removal of current employees from their Civil Service appointments would lead to a deterioration of morale, foster favoritism, generate a disruption of on-going programs which would result in a temporary retardation of services to our students.

(b) We believe an addition should be made to this subsection which would allow the maintenance of a list of applicants for positions at the Agency level also.

(1) We totally agree

(2) This sub-section, we believe, could be strengthened by clarification. As stated, all school supervisors will be hired by the Superintendent for Education. However, since our schools have several levels of supervisory personnel, we believe that the Superintendent for Education of the appropriate agency should only have the authority to hire, after binding consultation with the affected local board, the head School Administrator.

(3) We totally agree.

(c) We totally agree as this is in full support of the concept of self-determination.

(d) We totally agree as this sub-section implements a more realistic concept of true self-determination for Indian people. However, we would like the inclusion of Agency School Boards within the realm of this subsection.

(e) This sub-section is fine as far as it goes. However, it omits any method for terminating the head supervisor of the school or terminating the Agency Superintendent for Education.

Both should be included. The former, upon just cause, by the Agency Superintendent for education in consultation with the local affected school board. The latter, upon just cause, by the agency school board and/or the Director of the Office in consultation one with the other.

MANAGEMENT INFORMATION SYSTEM

Sec. 7 We agree with this section except, we would like to offer a recommendation for improvement by the addition of a sub-section (6) that would address accountability. The Bureau, to my knowledge, does not maintain any centralized student achievement data, therefore, measureable accountability is not specifically addressed. We need uniform pre-post testing data from schools of two types: Standardized Achievement Tests and Criterion-Referenced Tests. I personally, and most school administrators, would find it hard to manage without an objective system of accountability and overall student achievement is the key to measuring accountability in education.

BUREAU EDUCATION POLICIES

Sec. 8 We agree with the established timelines.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

Sec. 9 We agree, however, this section could be strengthened by the insertion of language that would prohibit the various divisions of the Bureau, when formulating uniform procedures and practices, from becoming too stringent in detail thus, allowing room in the regulations for the development of local initiative to address local needs. We need to be held accountable for academic student achievement within parameters which permit and promote local initiative without stultifying constraints.

RECRUITMENT OF INDIAN EDUCATORS

Sec. 10 We totally agree.

ANNUAL REPORT

Sec. 11 We totally agree.

EFFECT ON BUREAU FUNDING

Sec. 12 We totally agree.

REGULATIONS

Sec. 13 No comment.

GENERAL AUTHORIZATION

Sec. 14 No comment.

DEFINITION

Sec. 15 We believe this section could be strengthened by the addition of the following language: the term "agency school board," when used with respect to bureau schools, means the advisory school board of the Bureau schools serviced by a respective Bureau Agency.

In conclusion, I would like to state for the record that while we are awaiting the implementation of constructive legislation to improve the educational service delivery system of the Bureau, our current difficulties in recruiting and hiring professional personnel could be improved immensely if the Bureau would vigorously pursue the acquisition of excepted appointment authority from the Civil Service Commission to hire non-Indian professionals.

I would also like to take this opportunity to express, on behalf of the Navajo people of the Eastern Navajo Agency and the administrators of their schools, our gratitude to this distinguished committee for demonstrating a sincere interest in the improvement of Indian education by developing, reviewing and considering this proposed legislation which we believe is very realistic in content and urgently needed.

Mr. HOLMAN. My presentation is a section analysis on the draft legislation providing for reorganization of the BIA school, dated September 13, 1977. I also received another document to comment on, and this was the testimony presented by Hon. Michael T. Blouin, chairman of the Advisory Study Group on Indian Education of the Committee on Education and Labor, and the Hon. Albert H. Quie, Ranking Minority Member of this committee, before the House Post Office and Civil Service hearing on Non-Indian Retirement, held July 26, 1977.

[The draft referred to above appears in the appendix.]

STATEMENT OF LARRY D. HOLMAN, SUPERINTENDENT, EASTERN NAVAJO AGENCY, BUREAU OF INDIAN AFFAIRS, CROWN POINT, N. MEX.

Mr. HOLMAN. The latter document was submitted to our agency principals and local agency school boards for review and comment. The recommendations contained there, became the concepts contained in the proposed legislation.

I would like to go through this legislation section-by-section, as to comments that we have had, and comments that we have had relative to it.

Starting under A BILL, (a) no comments.

(b) We believe this section needs further clarification in that the specific divisions of the Bureau and position titles need to be identified that are involved in education functions to enhance responsibility and accountability. We also believe that education personnel located in area offices should also be required, upon request, to provide necessary technical assistance to agencies as well as individual schools.

(c) We believe this section could be strengthened by the addition of a subsection (4) which would require education personnel located at agencies to provide technical and coordinating assistance in areas related to curriculum design and implementation.

The next section is Implementation of Transfer, section 2, and we have no comments.

The next section is Allotment Formula. Section 3(a), we have no comments. (1) No comments. (2) No comments. (A) No comments.

(B) We believe this subsection could be strengthened by the addition of language that would provide an equitable funding differential to offset present formulas as received by the Bureau from other legislative appropriations such as Public Law 94-142 which allows 12 percent of the school population to qualify.

We believe that our students are not equivalent to the national student population in terms of academic attainment, while Indian student potential is equivalent, their needs are greater in terms of the educational deficiencies addressed by the aforementioned public laws.

(3) We believe this subsection needs strengthening in that Federal school system administrated by the Bureau must receive funding that exceeds funds provided by States for the education of Indian students because one of the criteria for admission to a Bureau school is that the Indian student is 2 or more years academically retarded in relation to national school achievement norms.

Thus, the Bureau must undertake vigorous and specialized programs which are, of course, more costly to remediate the academic deficiencies evidenced by Indian students.

(B) No comment.

UNIFORM DIRECT FUNDING AND SUPPORT, SECTION 4

The concept of direct funding has merit and should be implemented. However, the method of implementation is of some concern in that it should be done in such a manner which will not require additional staff at small and intermediate size schools or schools that are isolated.

Principals have expressed concern over the fact that the majority of their time might be required to accomplish this endeavor instead of being able to devote their full concentration toward alleviating academic deficiencies in their students.

They are afraid of more redtape and time consuming chores not directly related to the learning process of the student and, in many cases, could become cumbersome enough to interfere or hinder the operation of the academic program.

Policy for Indian Control of Indian Education, Section 5, we believe that it is excellent.

EDUCATION PERSONNEL, SECTION 6

(a) We are in full support of this section. The committee must be advised that any arbitrary removal of current employees from their civil service appointments would lead to a deterioration of morale, foster favoritism, generate a disruption of on-going programs which would result in a temporary retardation of services to our students.

(b) We believe an addition should be made to this subsection which would allow the maintenance of a list of applicants for positions at the agency level also.

(1) We totally agree with.

(2) The subsection, we believe, could be strengthened by clarification. As stated, all school supervisors will be hired by the superintendent of education. However, since our schools have several levels of supervisory personnel, we believe that the superintendent of education of the appropriate agency should only have the authority to hire, after binding consultation with the affected local board, the head school administrator.

(3) We totally agree with.

(c) We totally agree as this is in full support of the concept of self-determination.

(d) We totally agree as this subsection implements a more realistic concept of true self-determination for Indian people.

(e) This subsection is fine as far as it goes. However, it omits any method for terminating the head supervisor of the school, or terminating the employment of the agency superintendent for education. Both should be included. The former, upon just cause, by the agency superintendent for education, in consultation with the local affected school board. The latter, upon just cause, by the agency school board and/or the director of the office in consultation with the other.

MANAGEMENT INFORMATION SYSTEM, SECTION 7

We agree with this section except, we would like to offer a recommendation for improvement by the addition of a subsection (6) that would address accountability. The Bureau, to my knowledge, does not maintain any centralized student achievement data, therefore, measurable accountability is not specifically addressed.

We need uniform pre/post testing data from schools of two types: Standardized achievement tests and criterion referenced tests. I personally, and most school administrators would find it hard to manage without an objective system of accountability, and overall student achievement is the key to measuring accountability in education.

Bureau Education Policies, Section 8, we agree with the established timelines.

UNIFORM EDUCATION PROCEDURES AND PRACTICES, SECTION 9

We agree, however, this section could be strengthened by the insertion of language that would prohibit the various divisions of the Bureau, when formulating uniform procedures and practices, from becoming too stringent in detail thus, allowing room in the regulations for the development of local initiatives to address local needs. We need to be held accountable for academic student achievement within parameters which permit and promote local initiative without stultifying constraints.

The rest of the sections 10, 11, 12, 13, and 14, we agree or have no comments.

Section 15, on the definition, we would like the term, "agency school board," defined in that section.

In conclusion, I would like to state for the record that while we are awaiting the implementation of constructive legislation to improve the educational service delivery system of the Bureau, our current difficulties in recruiting and hiring professional personnel could be improved immensely if the Bureau would vigorously pursue the acquisition of excepted appointment authority from the Civil Service Commission to hire non-Indian professionals.

I would also like to take this opportunity to express, on behalf of the Navajo people of the Eastern Navajo Agency, and the administrators of their schools, our gratitude to this distinguished committee for demonstrating a sincere interest in the improvement of Indian education by developing, reviewing, and considering this proposed legislation which we believe is very realistic in content and urgently needed.

Mr. LOVESEE. By virtue of Congressman Blouin's directive, we will go ahead and ask you questions.

I also realize that Ms. Plume and Ms. Blue Earth have a plane to catch, and I have borne this in mind. So if it is all right, I would suggest that the staff address the questions that they have specifically for those individuals first.

I have a couple of questions. I know in our conversations and also in the testimony, you mentioned that there was a need for a provision for some kind of funding for the local school boards. I wish you would go into that a little bit more and explain what you have in mind, and where should the funding come from. Should it be through the central office, or should it be through some other division?

Ms. Plume. I think that it should come from the BIA. The tribes can probably contract for this function from the Central Office.

Mr. Lovesee. Are you talking about funds for local school boards to conduct seminars, training sessions for school boards? What are you talking about?

Ms. Plume. I am talking about school boards, which will need defining. I am referring to the tribal board of education. I would like to see funding for that board, for their meetings, and for their training.

Mr. Lovesee. I am a little unsure from your testimony, both written and oral, as to your perception of our term "school board," the bill as written, and the way we meant it to read, was that for the reorganization section, the local school board is the current BIA Advisory School Board.

Ms. Plume. That is the one to which I am referring.

Mr. Lovesee. Now do those school boards, the ones that each school has in place, do they need funding; if so, do they need it directly, or is there some other method?

Ms. Blue Earth. I am not going to tell how to fund it. But the funding would provide some training. We need much more training. We did some of that through title IV, the Indian Education Act, last year. But this is something that must be continued. You don't train someone and then drop them off.

The other factor is that the school boards are elected, so the people change every 2 or 3 years, depending on what these terms are. The other area that must be funded is travel. Our board of education, they come from Bull Head, which is an 88-mile round trip from Fort Yates. Many of these people do not have jobs, and if they do, it is something that does not pay that much. As officials, when we travel, we are reimbursed. I don't think that anyone would expect you to buy a plane ticket to go somewhere on business, or that is part of your job. The school board members, we ask them to travel anywhere from 26 to 104 miles, and 104 miles is where all of our representatives come from, with no compensation. Until now, we have only been paying mileage. We need money, basically, for traveling and training.

Mr. Blouin. Whoever had the train of thought, please continue.

Mr. Lovesee. Down on the Navajo Reservation, there is a group, the Navajo Area School Board Association, which is on contract to the Bureau to provide technical assistance and training to the school boards.

There has been some question in the past as to the adequacy of performance under that contract. I am wondering if it might not be better to have either the Bureau provide the services directly, or provide a certain number of funds to the local school boards, and they could figure out where they wanted to get the services, as opposed to giving the contract to a central authority which ostensibly would provide training and assistance to the school boards that are out there, however many there would be within an agency or within an area.

Can you address which of those two concepts is better?

Ms. Blue Earth. The concept of letting the board decide where they want to obtain the training would be better. Then they would not be tied into as to the training that they would receive. They would have an option of taking what they felt they needed the most.

Mr. Lovesee. That is the end of that train of thought.

Mr. Blouin. Let me ask you a few general questions.

Let me comment that I think both of your statements are excellent. I really appreciate the work that you put into them. It is obvious that you have spent a lot of time on it, and we appreciate it.

I think that it is fair to assume from the thrust of your testimony that you both, or all three of you, generally agree with the general direction of what we are trying to work here. This is hard, and it is probably unfair, but do you think that your reaction to our work is typical of agency level reaction around the country?

Ms. PLUME. When you say agency, do you mean BIA, tribal, or tribal/BIA?

Mr. BLOUIN. Primarily BIA.

Ms. PLUME. Yes.

Mr. HOLMAN. I think the consensus would be highly in favor of this proposal at the agency level, and more especially at the local school level.

Mr. BLOUIN. We have found very, very little resistance from the tribal level, as a matter of fact. I don't know of a single tribe that has expressed disagreement with the direction.

Are you aware of any particular tribal concerns as to the direction of the legislation?

Ms. PLUME. I think you are offering rather expanded options to a tribe. Before, in 93-638, as a tribe, Standing Rock is a bit cautious about contracting. Before, if you wanted this type of control, it was contracting or else, and they were giving that a great deal of thought.

I am pretty sure from my past dealings with the tribe that they would feel that these are expanded options.

Mr. BLOUIN. Perhaps you have already commented on this while I was gone to vote, but what is your opinion of the Indian preference option?

Ms. PLUME. That is hard for me to answer. I know that it has been hard for Indians to get into these types of jobs. It is probably why I got a superintendent's job after those years. You will notice how long it took me, being a female and Indian. I certainly would like to see our other Indian people have this chance. Right now we do not have the staff, we do not have the candidates for these jobs. Perhaps it could be treated like the veterans' preference. If you bypass a veteran, you certainly have to justify it. Maybe we could do the same with Indian preference.

Mr. BLOUIN. That is a thought. Do you have concern that tribal governments would waive Indian preference because of intertribal political pressure?

Ms. PLUME. Standing Rock, so far in my dealings with that tribe, they want Indians even if they have to take a woman. I would have every confidence that that tribe would hire Indians. How it would work somewhere else, I don't know.

Mr. BLOUIN. At first blush, my hesitance about veterans' preference would be that this would be weaker in a situation like Standing Rock than giving the waiver option solely to the local Indian council, saying that there shall be Indian preference, unless in writing the local body waives it for a specific purpose.

The other way, you could find all sorts of ways of getting around it.

Ms. Plume. We have found it too easy to get around in the veterans' preference.

Mr. Blouin. You have not thought of it.

Larry, do you have any comments on Indian preference?

Mr. Holman. The Navajo, in our particular agency, we have been consulting local school boards since 1968 in the hiring of personnel at all levels, from the principal down to the lowest paid job in the school.

The policy of Indian preference did not have an immediate effect upon us because of staff turnover. But here lately, it has been said that the local school boards would like the authority to select whom they feel is the best qualified individual for their particular situation, and their particular community.

Now, in some cases, this would mean bypassing an Indian. In some other cases, it would not. I have had experiences both ways. Some most definitely want Indian candidates, and then I have had cases where the community was very adamant in not wishing to hire the Indian candidate.

So, our local school board, at Navajo, would most definitely be in favor of that legislation.

I have another comment. This legislation requires for an extensive training program to be undertaken by the Bureau, and the Indian preference, the reason I encountered difficulties with Indian preference in dealing with the local school board was because of the lack of Indian candidates. You receive one name on the certificate. I have not encountered this difficulty when we have received three or four Indian candidates. Out of three or four, one is bound to be able to do the job.

Mr. Blouin. You don't find that too often, do you?

Mr. Holman. Not very often. I encountered that one time. But before that, we were having problems finding qualified Indian candidates, and no community likes to be faced with that criteria.

The extensive training provisions for the job, and the job experience in association with the training, is very commendable.

Mr. Blouin. Assume that there is a waiver process, and the provision stays, would you prefer that the waiver authority stay exclusively with the tribal council, or should it be with the tribal council and the local school board?

Ms. Plume. I had not thought about it. Probably with the tribal council.

Mr. Blouin. It is probably tougher with the Navajo because of the size of the area.

Mr. Holman. The size of the governing body of the Navajo Council is 140,000 to represent. You have some sense of what a councilman might be faced with. I would say that you could give it to the tribal council, and if they want to delegate it any further, and they can, so do it, by legislation on their part.

I am speculating here that they would probably delegate it to the local school boards, if you mandate it through the council. There is a provision for such an authority to delegate down to the local level.

Mr. Blouin. You mentioned that your greatest need was facilities. Are you talking about replacement of facilities, or general repair of facilities, and upgrading of present facilities?

Ms. Plume. I am talking about the replacement of the two day-schools that we have. We complain about all the dropouts that we have, but if we brought all the students in, we would not have room to place them, unless we got a new school.

Mr. Blouin. How would you piece a section into this proposal to deal with construction?

Ms. Plume. I would have to look at it again.

Mr. Blouin. I don't mean specifically what page or line, but generally. What would you do if you wanted to include a provision for construction?

Ms. Plume. The tribes are going to run these schools, so we need adequate facilities to do it.

Mr. Blouin. There is a provision in the legislation that requires a facilities assessment, effectively. This is on page 10, section 6. It deals with the dormitory situation, but it does bring on schools. Within 1 year after issuance of criteria, which is called for in the preceding paragraph, the Bureau shall implement such criteria.

Just from first blush, I would guess politically that it would be the hardest provision in the whole act to get passed, because there is more appropriations following it. So it is probably going to be the most costly one-shot provision in the entire act.

If anything raises the hair on the back of the neck, it is probably that section. Would you prefer going beyond that?

Mr. Holman. Mr. Blouin, I personally like that language. I can see illusions of those schools and rehabilitation schools, and such and so forth. But the realities of the situation, this section of the bill will probably be determined by how much money is available.

Mr. Blouin. We can always pass this legislation with an open-ended appropriation, and this does not get you one nickel. The fight then starts in the Appropriations Committee.

Mr. Holman. That is right.

Mr. Blouin. That is the problem right now, getting sufficient funds into construction nationwide, any area.

Mr. Holman. As far as strengthening that section, I believe that my recommendation that the Bureau working in cooperation with a nonbiased, noninvolved executive agency, like GSA, be involved in the prioritizing procedures, because I would not want to see political powers come to Washington, and sell someone on the school construction idea.

Mr. Blouin. You would start a war here.

Mr. Holman. I would be willing to accept—I know that this occurs today, and I would like to see a nonbiased third party go in with the Bureau on the construction, and recommend to Congress these other needs in terms of the greatest needs by area.

Mr. Blouin. You would be interested to know that this is precisely what is being done right now as a result of a colloquy on the appropriations conference report, which Mr. Quie and I entered into with Mr. Yates on the floor of the House a couple of months ago. That is exactly where it is heading.

GSA will be an automatic consultant for the quality of construction, priority construction needs assessment, and things of that nature. We were somewhat reluctant to go outside, but I agree with that they did, because I don't know where else they could go.

Do you have an comment on that, Ms. Plume?

Ms. Plume. No; we have talked about the priority system, but I thought that it was to our interest to expand on them at the reservation level, until those schools would get a replacement.

Mr. Blouin. I have no more questions.

Does the staff have any?

Mr. Cross, do you have any?

I am going to go to the floor again, and I will probably not get back before you finish. When the staff finishes with the questions, they will adjourn the meeting.

I do want to thank all three of you for coming. I appreciate your willingness to take the time and expense. We hope to keep in touch with you, and other people at your level of education across the country. We hope that gradually we can perfect this bill, to where it can be a successful part of the ESEA markup next year.

Mr. Cross. There are two things that I would like to explore specifically.

On Standing Rock, I understand the schools there are run on a cooperative management between BIA and the local schools?

Ms. Plume. One elementary and secondary school.

Mr. Cross. What is the governing structure of that school?

Ms. Plume. What do you mean? It is a BIA school.

Mr. Cross. It is a BIA school, but the State puts some funds in it also?

Ms. Plume. Yes, they do.

Mr. Cross. The school board is all Indian, is it?

Ms. Plume. It is not. We have some Indians on that board. They are elected.

Mr. Cross. What is the size of the school board, and the size of the Indian representation?

Ms. Blue Earth. There are seven district board members. Of that seven, four are Indian people.

Mr. Cross. I believe all three of you were here when I asked the questions about technical assistance at the agency level and the area level, and whether there was adequate personnel there to carry out the act. We would appreciate hearing your comments on that, and your opinion as to whether that expertise exists in the area.

Ms. Plume. I would like to have "technical assistance" more clearly defined.

Mr. Cross. How would you like it defined?

Ms. Plume. Technical assistance, would include that you do this, this, and this.

Mr. Cross. For instance, the layout of the curriculum, and what it might be through several grades, and so forth?

Ms. Plume. In the specifications I mentioned, overall specifications.

Mr. Cross. The teacher ratios and that sort of thing?

Ms. Plume. Yes, that is a form of specification.

Mr. Lovesee. One point of clarification, you do not mean in the legislation, how it would be spelled out.

Ms. PLUME. Not necessarily in the legislation.

Mr. CROSS. Thank you.

What about band analysis, what is your reaction to that?

Ms. BLUE EARTH. I will tell you the tribe's reaction, it is very difficult to set them down, and really get them involved in band analysis in a PPE process. I have tried. I think that this is something that we should work on. The short time that they have to complete it, we always have this deadline.

When they feel that they have to take from one program to give to another one, they really feel that they do not have much say. They are already locked in with the figures that they are giving us.

Mr. HOLMAN. Band analysis in our agency, the people take a very active role. The problem that we run into is that the actual band is omitted, and the various committees and agency governing bodies have signed off on the band. Then tribal politics get into the band. It needs to be different from what is submitted.

Mr. CROSS. Different in terms of priority?

Mr. HOLMAN. There is no difference, the priorities come back the same. The direct funding process would probably eliminate out of the band, except that the band at that point would be competing against education systems in other areas. But it would eliminate any removal of the education role from those projects.

Mr. CROSS. How much difference has banding made in education?

Mr. HOLMAN. Looking at band submissions for the past 4 or 5 years, when we submitted for 1979, I found that we have gotten—we have been funded about 10 percent above our basic needs of the previous year. However, when testimony was presented here earlier, inflation, pay raises, and so on eroded out those dollars.

The school construction has not banded at our level. So this is something that is not even developed. This is something that the local level would like to get involved in, it is school construction and the band. It must be banded at the central office.

So if we could get the construction needs in the band, in conjunction with it, I think that it would make an improvement.

Mr. CROSS. Implicitly you are indicating some unhappiness with the new construction system and the section of priority setting.

Mr. HOLMAN. That is the only one they have had, and they are always trying to refine that method. For our own peace of mind, I would like an unbiased third party to be involved in setting priorities. That way we would know that it was done without prejudice.

Mr. CROSS. The problem is getting in, after-the-fact, a third party who also is well rounded as to the particular situation, the Alaskan geography, or the Navajo geography, to enable him or her to make those decisions intelligently.

Let me ask, in terms of the various programs administered by the Office of Education, title I comes under both of your agencies. That is a formula grant program that moves pretty much without anyone down the line doing anything.

What about the project fund program for bilingual education, and all those other small programs, like metric education? How are you informed about those? How do you find out how to apply, when to apply, and what to apply for?

Ms. BLUE EARTH. We don't have a lot of those programs on our reservation. When we do find out about something, it is mostly through our own efforts. It is a "hit and miss" thing. There is no formal line of communication to the schools as to what is available, and what is not available.

We just go around searching, and if it looks like there might be some funding available, we go through with the proposal and submitting that.

Mr. CROSS. So no one at the BIA up the line, in Albuquerque or Washington, the area office, or anyone else, sends out a directive that says:

> The Office of Education is now soliciting proposals for bilingual education, here is what you have to do.

Ms. BLUE EARTH. I would have to say that I am not an agency employee. So I do not know what comes into the agency. I am with the tribal board of education. But in most cases, the education superintendent copies everything for our information (and we do not get information) from that office as to what funding might be available.

Mr. CROSS. Would you care to respond?

Mr. HOLMAN. Yes; we are very well informed in that area in terms of supplemental moneys available, such as title I, title VII, title IV, education for the handicapped and the elderly. We do get that information, and we do get it timely.

At the agency level, we have a section of the agency office that is totally for implementation and evaluation of those endeavors.

Mr. CROSS. What about down at the local school; does the Bureau school superintendent have adequate time when it comes to preparing applications?

Mr. HOLMAN. In the larger schools, we have the staff for special projects. For the other schools, we have agency staff that maintain these projects, as far as effectiveness is concerned.

Mr. CROSS. I have some other questions for Mr. Holman, but I know that you both have a plane to catch.

Mr. LOVESEE. I have one question.

When I read the statement, I got the impression that you were interpreting the bill to mean that the agency would have funding, and would use management prerogative and control, and would have staff recruitment and selection at the agency level.

The way the bill is written, the agency would provide assistance, but the local school board would have the ultimate authority on these particular things. So it would be all out in the field, mostly decentralized. The parents involved would have control.

I got the impression, from reading your testimony, and I want to be sure that it is a wrong impression, that you were under the impression that the agency staff would have control over the selection of teachers.

Ms. PLUME. Perhaps I should have used the term "local."

Mr. LOVESEE. I still have some questions, but I will put them in writing. I am looking at the clock and I am mindful of your plane. Perhaps, you would like to be excused.

Ms. BLUE EARTH. I would like to comment on two things.

First of all, I would like to endorse what the gentleman at the end said about the band analysis. I utterly agree with all his statements.

The thing that I questioned in the bill, where you talk about the student formula. It is unclear as to whether or not the education

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moneys are going to remain banded, or if they are going to be unbanded. I think that this should be spelled out because in my dealings with the Bureau of Indian Affairs, there is a difference between banded and nonbanded items.

The other thing, there is no mention as to whether or not the level of funding that education receives now is going to be maintained or not. I am thinking that perhaps if there are personnel to leave at the area level, for example, they may take the funding with them. I would like to see some mention to maintain the current level of funding.

Mr. LOVESEE. Both of those proposals will be taken into consideration. As to the first one, the BIA has set up a task force to look at the bill and make recommendations on technical changes which we may not be fully versed in. We will have complete input into that.

As to the second, I thank you very much for bringing it to our attention, and we will take very, very serious consideration of that.

Mr. CROSS. Let me just say that I think it is very explicit in the legislation that education will be removed from the band. This would be a direct operation of money going from the area central office down to the various schools on the basis of that formula.

I believe that majority counsel agress with that. It is the intent. I will yield to a gentleman with much more experience in the field than I have, as to whether it is absolutely clear or not.

Mr. LOVESEE. Thank you very much.

Mr. Holman, if you would remain for a little while, we would appreciate it.

Mr. CROSS. I was going to go through your statement, where you make specific recommendations, and I was going to ask you to elaborate on some of those.

Mr. LOVESEE. Excuse me, Mr. Cross. In consultation with the minority staff, we have another problem which has come up, and which necessitates my leaving. However, in view of the fact that we do want these statement to be specifically on the record for future use, the gentleman has yielded to me, for one specific question, and then another individual will finish this hearing.

There was a mistake in the bill as printed, section 15(c), which specifically deals with the school board's authority over budgets, and that relationship with the tribe, as it is now written, it states that they will not have authority over the budget, unless it is specifically given by the tribe.

The way it was meant to read was that they would have it, unless specifically taken away by the tribe. I am wondering, in your statement, which addresses that section specifically, if the reversal affects your statement where you say that it is in compliance with self-determination. Does reversing that procedure take it out of compliance with self-determination in your opinion?

Mr. HOLMAN. It strengthens self-determination.

Mr. LOVESEE. Mr. Cross is going to continue the questioning for the minority side. Mr. McFarland will take over on our side, and at the end of the questioning by Mr. Cross, I would ask him to terminate the hearing.

Mr. CROSS. I promise not to be very long. But I think that it would be helpful to get some clarification.

On page 4, you mention that one of the criteria for the admission to a Bureau school is that the student be 2 or 3 years behind.

Mr. Holman. It is universally true. At Navajo, all of our students are 2 or more years academically retarded.

Mr. Cross. As you may know, a number of us were in Alaska last month, and in most areas there are only BIA schools. So it does not matter whether those students are 2 years ahead, or 2 years behind.

Mr. Holman. Could I clarify that?

What I mean by that, if you have an Indian student who is eligible and can be serviced by a public school, he is to attend that public school unless certain circumstances, like being 2 or more years academically retarded.

In our boarding situation, we do have students who are eligible for public schools, but because of their academic deficiency, they are in a boarding situation, or are attending a Bureau school because of inadequate programs in the public school.

Mr. Cross. That is very helpful.

On the next page, you discuss direct funding, and you talk about not wanting this to require additional staff. What is your reading of that section, which might lead you to believe that it would require additional staff?

Mr. Holman. If the central office is going to assume, in conjunction with agency offices and area offices, more evaluation and modification, when now the evaluation is primarily placed in the hands of the agency, but if the area office and central office are going to assume this responsibility, in terms of the budget itself, then they probably would be required to make reports on the budget, filling out various forms on the expenditure of funds, et cetera.

I am speculating, but our experience with the amount of paperwork involved, we would have to establish a management technician type position for each principal in order to accomplish this, if he were to be saddled with more regulation and accountability.

In isolated schools, I would like to point out, we do not have any housing, so any additional staff would require housing and the expenditure of more funds, et cetera.

Mr. Cross. This is very helpful, and it is a good suggestion.

At the bottom of that page, in your full statement, and I don't believe you read that particular statement, you talk about the removal of civil service employees from appointments. I think that the bill is pretty clear, although I understand there is a line dropped out and that may cause some confusion in the printed bill, although not in the typed one.

Anyone who is now a civil service employee has the option of retaining this status. They could remain in the system, or under the provisions of this section of the law——

Mr. Holman. They would have an option.

Mr. Cross. If they wanted to stay in civil service, they could. If they wanted to go under whatever new arrangements were made, they could do that as well. We were concerned about that also.

Mr. Holman. Are you saying that this has been clarified?

Mr. Cross. Yes. It is on page 17 of the printed bill, and the reference is in lines 19, 20, and 21.

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You also referred at the top of the next page to maintaining a list of the area offices. I don't think that there would be any problem doing that. We did not say that explicitly, but I don't think that we have any problems maintaining a list at that level.

Mr. HOLMAN. Could I comment on that?

Mr. CROSS. Yes.

Mr. HOLMAN. Since it is already spelled out in the proposed bill, that might become law, we would just add the agency to remove all assumption.

Mr. CROSS. I understand your point. That is certainly a good point. We will have amendments before the bill becomes finalized.

The last point I have is on page 7, the management information system, you suggest student achievement data be maintained as well.

I believe the section in the bill just talks about some examples of the kind of data that might be in the management system. I think that your suggesting there of adding something along that line is a good one. I certainly do not have any problems with it. We want to keep it pretty general and not say that it has to be standardized test scores, or anything too specific.

Mr. MCFARLAND. I have one question. With the passage of Public Law 93-638, a lot of people expected wholesale contracting, and tribes jumping at the opportunity to go ahead and contract the services and determine their own future.

The question I have is along the lines of, do you feel that the provisions in this bill help tribes lose some of the stigma that surrounds self-determination?

Mr. HOLMAN. Yes; this was discussed earlier in testimony. It was mentioned that this bill does represent another managerial or self-determination provision that would be made available to the Indian people.

I think this bill will implement some of what was thought to be some of the good qualities of Public Law 93-638, like running your own school, and your own education system, without the stigma of determination. That is why Public Law 93-638 has not been rapidly accepted by the tribes that I have experience with.

It is because they have this fear that Public Law 93-638 might mean termination of the Federal trust responsibility, as they see in the Bureau of Indian Affairs. If you are totally contracted, and totally responsible, the general consensus in the Navajo Agency is that the Bureau is no longer accountable, they are.

So, there is a great deal of fear in this. But they would like some of the provisions of Public Law 93-638, and I think this bill gives them some of the provisions without termination of Bureau services, and the Bureau being the responsible body.

Does that answer your question?

Mr. MCFARLAND. Thank you.

The hearing is adjourned, and we will meet again at 1 p.m. tomorrow in this room.

[Whereupon, at 3:25 p.m., the hearing adjourned, to reconvene at 1 p.m., Thursday, September 29, 1977.]

[Material submitted for inclusion in the record follows:]

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
PHOENIX AREA OFFICE
P. O. Box 7007
Phoenix, Arizona 85011

IN REPLY REFER TO:

Education

November 29, 1977

Honorable Michael T. Blouin
Chairman, Advisory Study Group
on Indian Education
Committee on Education and Labor
402 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Blouin:

In response to your letter requesting that I submit answers to three additional questions, I am enclosing the following responses. (See Enclosure No. 1).

I appreciate having the opportunity to respond to these questions and sincerely hope that the responses will contribute to the necessary information you are seeking.

Sincerely yours,

Ray Sorensen
Assistant Area Director
(Education)

Enclosures

Enclosure No. 1

1. Regarding the reorganization of the Bureau, do you feel that it should be done legislatively, as opposed to an administrative process, thus eliminating the need for periodic reorganization?

   We believe that all organizations should be living, viable entities, susceptible of change as the need occurs. An organization that is legislated may not have the flexibility that would allow change of the organization to meet changing needs. We believe that the organization of education should be as flexible for change as the other components of tribal government activities.

2. Could you explain for the record, your comment in your prepared text before the Subcommittee regarding Bureau reorganization, in which you indicated your feeling that there has been "massive tribal resistance to the proposed reorganization."

   The feeling that there has been massive tribal resistance to the proposed reorganization is evidenced to me by the enclosed resolutions and/or position papers of the following:

   Winnebago, Omaha, and Santee Sioux Tribes of Nebraska
   Winnebago Tribe of Nebraska
   Omaha Tribal Council
   Santee Sioux Tribe of Nebraska
   The Jicarilla Apache Tribe
   The Confederated Salish and Kootenai Tribes of the
     Flathead Indian Reservation
   Native American Political Association
   National Tribal Chairmen's Association
   Nez Perce Tribal Executive Committee
   Education Conference of California
   Phoenix Area Inter-Tribal School Board
   Creek Nation of Oklahoma
   The Inter- Tribal Council of the Five Civilized Tribes
   Affiliated Tribes of Northwest Indians

3. You indicated that if the current "top management" understood and accepted the organizational "principles and philosophies" of the BIA, the current system would be fine. Please explain - how could this foster local control?

   The principles and philosophies of the Bureau reorganization to which we referred is the acceptance of the legal basis for the Federal-Indian relationship as being a relationship between governments. The Bureau is organized in such a manner as to permit tribal governments to perform their legitimate roles. We believe that the function of the Bureau should be to allow tribal governments to foster local control if such control is desired by tribal governments. The Federal Government should not impose its desires for local control on Indian tribes by establishing mechanisms for direct dealings between the Federal Government and "local" entities below the tribal government level. In this connection, we invite your attention to the enclosed article by the eminent legal scholar, Felix S. Cohen. Written in 1949, the article is as true today as the day it was written. (See Enclosure No. 2).

Enclosure No. 2

INDIAN SELF-GOVERNMENT

BY FELIX S. COHEN

12-9

Not all who speak of self-government mean the same thing by the term. Therefore let me say at the outset that by self-government I mean that form of government in which decisions are made not by the people who are wisest, or ablest, or closest to some throne in Washington or in Heaven, but, rather by the people who are most directly affected by the decisions. I think that if we conceive of self-government in these matter-of-fact terms, we may avoid some confusion.

Let us admit that self-government includes graft, corruption, and the making of decisions by inexpert minds. Certainly these are the features of self-government in white cities and counties, and so we ought not to be scared out of our wits if somebody jumps up in the middle of a discussion of Indian self-government and shouts "graft" or "corruption."

Self-government is not a new or a radical idea. Rather, it is one of the oldest staple ingredients of the American way of life. Many Indians in this country enjoyed self-government long before European immigrants who came to these shores did. It took the white colonists north of the Rio Grande about 170 years to rid themselves of the traditional European pattern of the divine right of kings or, what we call today, the long arm of bureaucracy, and to substitute the less efficient but more satisfying Indian pattern of self-government. South of the Rio Grande the process took more than three centuries, and there are some who are still skeptical as to the completeness of the shift.

This is not the time and place to discuss the ways in which the Indian pattern of self-government undermined the patterns which the colonists first brought to this country, patterns of feudalism, landlordism and serfdom, economic monopoly and special privilege, patterns of religious intolerance and nationalism and the divine right of kings. It was not only Franklin and Jefferson who went to school with Indian teachers, like the Iroquois statesman Canastego, to learn the ways of federal union and democracy. It was no less the great political thinkers of Europe, in the years following the discovery of the New World, who undermined ancient dogmas when they saw spread before them on the panorama of the Western Hemisphere new societies in which liberty, equality, and fraternity were more perfectly realized than they were realized in contemporary Europe, societies in which government drew its just powers from the consent of the governed. To Vitoria, Grotius, Locke, Montaigne, Montesquieu, Voltaire, and Rousseau, Indian liberty and self-government provided a new polestar in political thinking. But, for the present, I want merely to emphasize that Indian self-government is not a new or radical policy but an ancient fact. It is not something friends of the Indians can confer upon the Indians. Nobody can grant self-government to anybody else. We all recall that when Alexander was ruler of most of the known civilized world, he once visited the philosopher Diogenes, who was making his home in an old bathtub. Diogenes was a rich man because he did not want anything that he did not have. He was a mighty man because he could master himself. Alexander admired Diogenes for these qualities, and standing before him said, "Oh Diogenes, if there is anything that I can grant you, tell me and I will grant it." To which Diogenes replied, "You are standing in my sunlight. Get out of the way." The Federal Government which is, today, the dominant power of the civilized world cannot give self-government to an Indian community. All it can really do for self-government is to get out of the way.

In the history of Western thought, theologians, missionaries, judges, and legislators for 400 years and more have consistently recognized the right of Indians to manage their own affairs. Nothing that we could say today in defense of Indian rights of self-government could be as eloquent as the words of Francisco de Vitoria in 1532 or of Pope Paul III in 1537 or of Bartholomew de las Casas in 1542 or of Chief Justice Marshall in 1832. For 400 years, men who have looked at the matter without the distortions of material prejudice or bureaucratic power have seen that the safety and freedom of all of us is inevitably tied up with the safety and freedom of the weakest and the tiniest of our minorities. This is not novel vision but ancient wisdom.

What gives point to the problem in 1949 is that after 422 years of support for the principle of Indian self-government, in the thinking of the western world, there is so little Indian self-government. Here we have, I think, the main problem on which I should like to throw the light of a few concrete examples and incidents.

I recall very vividly in 1934 working on a study for the Indian Office of legal rights of Indian tribes which was to serve as a guide in the drafting of tribal constitutions under the Wheeler-Howard Act. I found that the laws and court decisions clearly recognized that Indian tribes have all the governmental rights of any state or municipality except in so far as those rights have been curtailed or qualified by Act of Congress or by treaty, and such qualifications are relatively minor, in fact. When, at last, my job was done and the Solicitor's opinion had been reviewed and approved by the proper authorities of the Interior Department and properly mimeographed, I learned to my dismay that all copies of the opinion in the Indian Office had been carefully hidden away in a cabinet and that when an Indian was found reading this opinion, the copy was forthwith taken from his hands and placed under lock and key. Incidentally, the Indian whose reading was thus interrupted had spent more years in school and college than the men who controlled the lock and key. The Indian Office was sure that the opinion, if released to the public, would be most disturbing. I suppose they were right. The opinion was disturbing to the Indian Office. Its suppression was equally disturbing to me. My despondency was somewhat relieved when I found that Chief Justice Marshall and Pope Paul III and Bartholomew de las Casas had all received the same treatment. It was of John Marshall's decision upholding the rights of self-government of the Cherokee Tribe that an old Indian fighter in the White House, President Jackson, said, "John Marshall has made his decision. Now let him enforce it." The sovereign State of Georgia paid no attention to the decision of the United States Supreme Court and the good missionary whom the Supreme Court had freed continued to languish in a Georgia prison. And what happened to John Marshall in 1832 was not novel. The same thing happened to Bartholomew de las Casas 300 years earlier when, as Archbishop of Chiapas, he endeavored to read to his flock of Spanish landowners the guarantees of Indian freedom signed by the Pope and by the King of Spain. He was not allowed to read these documents by the outraged landowners of his archdiocese. In fact, he was driven from his church. History has a strange way of repeating itself. I was relieved to find myself in such good company, and so, instead of resigning, I distributed copies of the opinion where I thought they would do the most good.

How can we explain the fact that despite all the respect and reverence shown to the principle of Indian self-government across four centuries, there is so little left today of the fact of Indian self-government? How can we explain this discrepancy between word and deed?

The simplest explanation, of course, and the one that is easiest for simple, unsophisticated Indians to understand is the explanation in terms of white man's hypocrisy.

I think we must go deeper into the wellsprings of human conduct and belief to understand what is happening in the field of Indian self-government and to relate facts to words.

Double-talk is not always a sign of hypocrisy. Probably the easiest way of maintaining consistency in our principles is to have a second-string substitute vocabulary to use in describing any facts that do not fit into the vocabulary of our professed principles. Thus, if we believe in liberty and find that some particular exercise of liberty is annoying, we may call that license, rather than liberty. So it is possible to talk about the virtues and values of self-government without allowing this talk to influence our conduct in any way, if we have a substitute vocabulary handy which will permit us to dismiss the appeal for self-government in any concrete case, without using the term "self-government." The second vocabulary to which professed believers in self-government continually turn when concrete cases arise is the vocabulary that talks about "a state within a state," "segregation," and, in the words of the Hoover Report, "progressive measures to integrate the Indians into the rest of the population as the best solution of 'the Indian problem'".

There are two answers to this double-talk: One is to deny the cliches and to insist that there is nothing wrong about having a state within a state; that, in fact, this is the whole substance of American federalism and tolerance. We may go on to say that the right of people to segregate themselves and to mix with their own kind and their own friends, is a part of the right of privacy and liberty, and that the enjoyment of this right, the right to be different, is one of the most valuable parts of the American way of life. We may say further that it is not the business of the Indian Bureau or of any other federal agency to integrate Indians or Jews or Catholics or Negroes or Holy Rollers or Jehovah's Witnesses into the rest of the population as a solution of the Indian, Jewish, Negro or Catholic problem or any other problem; but that it is the duty of the federal government to respect the right of any group to be different so long as it does not violate the criminal law.

Apart from this challenging of cliches there is a second cure for the habit of double-talk in our discussions of Indian self-government. That remedy is to reject what Stuart Chase called "the tyranny of words" and to think facts. The great American philosopher, Ralph Barton Perry, coined the phrase, "The egocentric predicament" to call attention to the fact that each of us is at the center of his world and cannot help seeing the world through his own eyes and from his own position. It takes a certain amount of sophistication to realize that the vision of others who see the world from different perspectives is just as valid as our own. One of the striking features of the administrative or bureaucratic mind is that it lacks such sophistication. Thus, it often turns out that the officials who have most to say in praise of Indian self-government have a certain blind spot where Indian self-government comes close to their own activities.

I recall that when we were helping Indians draft the constitutions and charters which were supposed to be the vehicles of self-government under the Wheeler-Howard Act, all of the Indian Bureau officials were very strongly in favor of self-government, and in favor of allowing all tribes to exercise to the full extent their inherent legal rights. There was only one difficulty. The people of the Education Division were in favor of self-government in forestry, credit, leasing, law and order, and every other field of social activity except education. Of course, education, they thought, was a highly technical matter in which tribal council politics should have no part. Education should be left to the experts, according to the experts, and the experts were to be found in the Education Division. Similarly, with the Forestry Division. They were all in favor of self-government with respect to education, credit, agricultural leases, law and order, and everything else except for forestry. Forestry, of course, involved matters of particular complexity and difficulty in which the experts ought to make the decisions, and the experts, of course, were to be found in the Forestry Division. So it was with the Credit Section, the Leasing Section, the Law and Order Division, and all the other divisions and subdivisions of the Indian Bureau. The result was that while every official was in favor of self-government generally, by the same token he was opposed to self-government in the particular field over which he had any jurisdiction. In that field he could see very clearly the advantages of the expert knowledge which he and his staff had accumulated, and the disadvantages of lay judgment influenced by so-called political considerations which would be involved in decisions of local councils.

Those of us in the Department who had been given a special responsibility for protecting Indian tribal self-government finally went to the Commissioner and pointed out that if we followed the traditional practice of yielding to each expert division on the matter with which it was concerned, there would be no Indian self-government. There was a long and bloody argument and eventually the Commissioner upheld the principle which is now written into most Indian tribal charters, that the Indians themselves, at some point or other, may dispense with supervisory controls over most of their various activities. Some of the charters include a special probationary period of five years or ten years, during which leases and contracts are subject to Departmental control. In many cases, particularly among the Oklahoma tribes, this period has terminated and the Indians are free, if they choose to do so, to make their own leases and contracts and various other economic decisions without Departmental control. That, at least, is what the charters and constitutions say.

Yet,I must add that instances have been called to my attention where decisions and ordinances that were not supposed to be subject to review by superintendents or by the Commissioner of Indian Affairs have been rescinded or vetoed by these officials. Tribes without independent legal guidance frequently acquiesce in such infringements upon their constitutional and corporate powers. Thus many of the gains of the Roosevelt era are being chipped away.

Let me give one more instance of the egocentric predicament in action. A certain Southwestern superintendent recently wrote an eloquent article in defense of Indian self-government, and in support of the idea that the Indian Bureau should work itself out of its job. A few weeks later some of the tribes under his jurisdiction decided that they needed legal assistance and proceeded to employ attorneys to help them handle their own leasing, grazing and social security problems. At this point all sorts of reasons began to occur to the superintendent why the tribes under his agency should not be allowed to select their own attorneys. In fact, for many months, as fast as one of his objections was met another objection occurred to him.

Here is a superintendent who is doing the best thing, as he sees it, for his Indians. He is, I believe, entirely sincere. Recently he explained that if one of these attorney contracts were approved he would be out of a job, so far as this particular tribe was concerned. Now you will recall that this is the same superintendent who wrote an article uring that the Indian Bureau work itself out of a job . But when the matter came to an issue in concrete terms affecting his own job, he saw the question in a different light. That is only human. That is a part of the egocentric predicament. And it is that predicament which makes the adherents and defenders of self-government so much more dangerous to the cause of Indian self-government than any outright adversaries. If self-government were a man it might repeat, "God preserve me from my friends. I can take care of my enemies."

Unfortunately, it is not the tribal decisions which we agree with that test our belief in the right of self-government. It is decisions that we loathe and believe to be fraught with death that test our beliefs in tribal self-government, just as it is religious opinions that we loathe and believe to be fraught with death that test our belief in religious tolerance. But it takes a vast amount of sophistication or philosophy to say what Justice Holmes once said, "I think we should be eternally vigilant against attempts to check the expression of opinion that we loathe and believe to be fraught with death." Allowing others to express opinions we agree with is not test at all of our belief in free speech. To quote again from Justice Holmes, "But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe in the very foundations of their own conduct, that the ultimate good desired is better reached by free trade in ideas."

May we not profit, may not the world profit, if in a few places in our Western Hemisphere there is still freedom of an aboriginal people to try out ideas of self-government, of economics, of social relations, that we consider to be wrong? After all, there are so many places all over the world where we Americans can try out the ideas of economics and government that we know to be right. Is there not a great scientific advantage in allowing alternative ideas to work themselves out to a point where they can demonstrate the evils that we believe are bound to flow from a municipal government that maintains no prisons, or from a government that gives land to all members of the group who need it? Are we not lucky that the areas within which these governmental ideas can work from themselves out are so small that they cannot possibly corrupt the nation or the world?

Indeed, is there not a possibility that we can learn from example--horrible examples, perhaps, or perhaps examples to be emulated? Have we not been learning from Indian examples for a good many years? Have we not been taking over all sorts of horrifying Indian customs, disrespect for kings and other duly appointed authorities, the smoking of poisonous weeds, like tobacco, and the eating of poisonous plant products, like tomatoes, potatoes, tapioca, and quinine, not to mention cocoa and cocaine? Of course, we must all of us start with the assumption that we are right or as near being right as we can be. But can we not also recognize, with Justice Holmes, that time has upset many fighting faiths, and that even if we are possessed of absolute truth it is worthwhile to have somebody somewhere trying out a different idea?

Just as serious as the habit of double-talk or the egocentric predicament is the method of procrastination as a way of avoiding the concrete implications of Indian self-government. On May 20, 1834, not 1934 but 1834, the House Committee on Indian Affairs reported that a large part of the activity of the Indian Bureau was being carried on in violation of law and without any statutory authority. It urged that the Indian Bureau work itself out of a job by turning over the various jobs in the Bureau itself to the Indians and by placing the Indian Bureau employees on the various reservations under the control of the various Indian tribes. These recommendations were written into law. They are still law. The justice of these recommendations has not been challenged for 115 years. But always the answer of the Indian Bureau is: Give us more time. We must wait until more Indians have gone to college, until the Indians are rich, until the Indians are skilled in politics and able to overlook traditional jealousies, until the Indians are experts in all fields in which the Indian Bureau now employs experts. But we are never told how the Indians are to achieve these goals without participation in their own government. And so perhaps some of us are entitled to look with a skeptical eye upon the new legislative proposals by which the Indian Bureau is to work itself out of a job after the usual interim 10 year or 20 year period of increased appropriations.

What provokes skepticism is the fact that the various bills which are being introduced into Congress to achieve this objective generally end up by giving new powers and new millions of dollars not to the Indian tribal councils but to the Indian Bureau. And when we find that specific dates are not attached to any promised transfers of power to the tribes, we are entitled to be skeptical. The record shows that for more than one hundred years the aggrandizement of Indian Bureau power has been justified on the ground that this was merely needed for a brief temporary period until authority could be conveyed over to the Indians themselves.

Indian Bureau government, like other forms of colonialism, starts from the basic premise that government is a matter of knowledge or wisdom. If we accept this basic premise, there is no answer to the aristocratic arguement of Alexander Hamilton that government should be handled by the rich, the well born, and the able. If it be said that rich people and well born people are not necessarily able, the obvious answer is that those who are rich or well born are at least more likely to have expert knowledge, training, and experience than those who are poor or the children of poor families, and that in government we must proceed by general rules, under which it is safe to say that the rich, the well born, and the able will do a more expert job than others in the posts of government. One of the greatest of our Secretaries of the Interior, also, like Hamilton, an immigrant from lands that worshipped empire, Carl Schurz, once said to an Indian group that was inclined to object to the activities of some local agency personnel: "The Great Father is a very wise man. He knows everything. If there is anything wrong with your agent, he will know it before either you or I know it."

I think that if government were merely a matter of wisdom and expert knowledge, the argument of Carl Schurz and Alexander Hamilton would be irrefutable. The answer to Schurz and to Hamilton is that government is not a science; it is primarily a matter of wisdom or technique or efficiency. Government is a matter chiefly of human purpose and of justice, which depends upon human purpose. And each of us is a more faithful champion of his own purposes than any expert. The basic principle of American liberty is distrust of expert rulers, and recognition, in Action's words, that power corrupts and that absolute power corrupts absolutely. That is why America, despite all the lingo of the administrative experts, has insisted upon self-government rather than "good government," and has insisted that experts should be servants, not masters. And what we insist upon in the governing of these United States, our Indian fellow-citizens also like to enjoy in their limited domains; the right to use experts when their advice is wanted and the right to reject their advice when it conflicts with purposes on which we are all our own experts. The classical answer to the Hamilton-Schurz-Indian Bureau philosophy of "expert government" is the answer given by Thomas Jefferson in a letter to the Cherokee Indians in 1808. Jefferson said: "The fool has as great a right to express his opinion by vote as the wise, because he is equally free and equally master of himself."

Recently I heard repeated the words of Nazi Admiral Doenitz, as he faced his judges at the conclusion of the Nuremberg Trial. The principle of expert leadership, he said, had proved itself in the armed forces as a principle of efficiency. It seemed to him that the same principle would prove itself in the field of government, but the results showed that the leadership principle in government had brought in its train only ghastly destruction.

Let us hope that we will not have to wait and see, as Admiral Doenitz saw, what happens when self-government and minority rights are subordinated to expert government and the leadership principle. Let us be thankful that in this country we have, in laboratory proportions before us, in proportions so small that the individual effort of half a dozen of us can make a real difference, this perennial conflict between democratic self-government and the various modern forms of aristocracy, or government by experts. The issue we face is not the issue of whether Indians will regain their independence of spirit. Our interest in Indian self-government today is not the interest of sentimentalists or antiquarians. We have a vital concern with Indian self-government because the Indian is to America what the Jew was to the Russian Czars and Hitler's Germany. For us, the Indian tribe is the miners' canary and when it flutters and droops we know that the poison gasses of intolerance threaten all minorities in our land. And who of us is not a member of some minority? The issue is not only an issue of Indian rights; it is the much larger one of whether American liberty can be preserved. If we fight only for our own liberty because it is our own, are we any better than the dog who fights for his bone? We must believe in liberty itself to defend it effectively. What is my own divides me from my fellow man. Liberty, which is the other side of the shield of tolerance, is a social affair that unites me with my fellow man. If we fight for civil liberties for our side, we show that we believe not in civil liberties but in our side. But when those of us who never were Indians and never expect to be Indians fight for the cause of Indian self-government, we are fighting for something that is not limited by the accidents of race and creed and birth; we are fighting for what Las Casas and Vitoria and Pope Paul III called the integrity or salvation of our own souls. We are fighting for what Jefferson called the basic rights of man. We are fighting for the last best hope of earth. And these are causes that should carry us through many defeats.

Phoenix Area Inter-Tribal School Board
TERRANCE F. LEONARD, Chairman

Phoenix Area Office
Division of Education
P.O. Box 7007
Phoenix, Arizona 85011
Telephone 602-261-4101

November 26, 1976

The Phoenix Area Inter-Tribal School Board on behalf of its students and Indian communities submits the following declarations:

1. Pursuant to the continued neglect and total disrespect of our tribal directives to seriously reconsider the reorganization of the Bureau's educational programs to expose any and all detrimental impacts, and;

2. Pursuant to recent activities of the Central Office with respect to Higher Education and Off-Reservation Boarding Schools, and the Area Board, in harmony with other Indian tribes and organizations, continues its opposition to the reorganization and calls upon the President and the Congress to declare an immediate moratorium on the further implementation of said reorganization.

3. Pursuant to the passage of a resolution by the National Congress of American Indians, Salt Lake City, Utah, wherein support was allowed for the reorganization provided that the Indian tribes be afforded the opportunity to accept or reject said reorganization, the Area Board reaffirms its Resolution 1001 and further REJECTS said reorganization within the Phoenix Area Office for the Off-Reservation Boarding Schools within its jurisdiction.

The Area Board has completely exhausted all efforts and avenues to cooperate with the Central Office in justifying the reorganization and to this date, we are completely dissatisfied and frustrated at the results.

Personnel responsible for this development should justify all activities to you and our trival governments.

We appeal to your leadership to give this matter your consideration, as it is apparent that the reorganization is not what Indian tribes want or had any involvement with in the developmental stages.

May we hear from you at the earliest possible date.

Best of luck in your term of office, and we are looking forward to working with and for you.

Respectfully yours,

Terrance T. Leonard

Chairman

Sent to: President-Elect Carter
Congressional/Senate Representatives
Arizona-Calif. Nevada and Utah
Secretary of the Interior
All Tribal Chairmen
Inter-Tribal Councils of CA, Nevada, Arizona

Phoenix Area Inter-Tribal School Board
TERRANCE F. LEONARD, Chairman
RT. 1 - BOX 109
SCOTTSDALE, ARIZONA 85256
TELEPHONE (602) 261-

RESOLUTION 1001

BEFORE

The National Congress of American Indians

The Secretary of the Interior

The President of the United States

WHEREAS, the Phoenix Area Inter-Tribal School Board, being duly authorized to represent the Indian tribes, communities and students for educational purposes of such schools or services administered by the Phoenix Area Office, Bureau of Indian Affairs, and;

WHEREAS, recent rules, regulations, policies and reorganization of the Bureau of Indian Affairs severely threatens the concept of Indian Self-Determination with regard to educational opportunities and benefits, and;

WHEREAS, said Board and the several Indian tribes and affiliations throughout the Nation have called attention to and therein challenged the further deterioration of such activities developed through the affected Indian tribes and communities for the benefit of the Indian Youth, and;

I.

NOW THEREFORE BE IT RESOLVED, that the Phoenix Area Inter-Tribal School Board calls upon the National Congress of American Indians, the Secretary of the Interior, and the President of the United States to bring serious attention to and thereupon requires such necessary legal actions to cease and desist reorganizational plans saving harmless appropriations thereto, and let all present know that the Area Board takes strong opposition to the reorganization and its lack of tribal direction, and;

II

BE IT FURTHER RESOLVED, that the Phoenix Area Inter-Tribal School Board calls upon the National Congress of American Indians to require a revision to the Johnson-O'Malley rules and regulations, Section 273.12 - Eligible Students by removing thereof..."except those who are enrolled in Bureau or sectarian-operated schools...," to allow Indian tribes the opportunity to contract for educational services based on eligibility of its student memberships, and;

III

BE IT FURTHER RESOLVED, that the Phoenix Area Inter-Tribal School Board calls upon the National Congress of American Indians to require the Bureau of Indian Affairs and the Civil Service Commission to cease further reduction of personnel and such classifications thereof within the educational systems administered by the Bureau of Indian Affairs; and;

IV

BE IT FURTHER RESOLVED, that the Phoenix Area Inter-Tribal School Board calls upon the National Congress of American Indians to require the applicable Area Offices of the Indian Health Services to request increased appropriations for health services, personnel, and construction for on-site clinical benefits for the off-reservation and post-graduate Indian Schools, and;

V

BE IT FURTHER RESOLVED, that the Phoenix Area Inter-Tribal School Board calls upon the National Congress of American Indians to require the Commissioner of Indian Affairs to reallocate the management of Higher Education within the respective agencies for expediency of services to Indian Youth and pursuant to the directives of each affected Tribal Government, and;

VI

BE IT FURTHER RESOLVED, that the National Congress of American Indians at the 33rd Annual Conference, Salt Lake City, Utah, adopt and endorse in good faith the resolution respectively submitted by the Phoenix Area Inter-Tribal School Board for and on behalf of all Indian Youth.

CERTIFICATION

PURSUANT TO THE AUTHORITY CONTAINED IN THE BELIEFS AND POLICIES OF THE PHOENIX AREA INTER-TRIBAL SCHOOL BOARD, APRIL 15, 1970, AND APPROVED BY THE COMMISSIONER OF INDIAN AFFAIRS, APRIL 30, 1970, THE FOREGOING RESOLUTION WAS ADOPTED THIS 6th DAY OF August 1976, AT WHICH A QUORUM OF 16 MEMBERS WERE PRESENT BY A VOTE OF 16 FOR, 0 AGAINST 0 ABSENT.

Terrance F. Leonard

Chairman

Attest:

Betty J. Nims

Secretary

La Follette

Salmon McCombs
Vice Chief

Creek Nation
Office of the Principal Chief
Claude A. Cox

Edward F. M
Executive Director

NOV 1976
Washington, D. C.

October 28, 1976

In Reply Reference:
FC: 100.0 (13)(D)
N.T.C.A.

Honorable Morris Thompson
Commissioner of Indian Affairs
Bureau of Indian Affairs
1951 Constitution Avenue, N.W.
Washington, D.C. 20245

Dear Commissioner Thompson:

The Creek Nation presents the following remarks in full support of the National Tribal Chairman's Association Education Committee policy papers of June and August, 1976. First, I would like to discuss the important points of these two policy papers, and then I would like to raise certain specific issues related to the Creek Nation and the other four of the Five Civilized Tribes.

The basic theme of the August policy paper is tribal government control. The tribal governments must have ample opportunity to review and comment on federal proposals to change the structure of Indian education, and must also have a full forum for the federal evaluation of tribal government proposals to improve the structure of Indian education. Tribal governments must be consulted in advance and their recommendations final through the full phase of the grant and award process. Utilizations of "Indian Organizations" (which are instrumentalities of the State unless chartered by a tribal government) should be the last resort of the BIA and other federal agencies, not the first and only alternative considered, as is the present case. Tribal educational responsibility is tribal government responsibility, and such educational responsibility has been and continues to be an inherent part of the Indian culture since before European influence; indeed, it was an influence that the Indian has had upon the European. This educational responsibility must extend to higher education as well, through the tribal government control of college and university grants.

In the June Policy paper, the first issue raised is that the sovereignty of the federally recognized tribes and their governmental right of support and endorsement must not be abridged by the federal agencie which are providing educational grants. The second issue raised is that American Indians are only those persons who are members of federally recognized tribes; and that such tribes have the sovereign and inalienable right to determine their own membership.

The third issue raised is that the NTCA must be involved in Education planning. The problems of education in Oklahoma are numerous. They range from a severe lack of interest within the general population on education in general to a regressive property taxation situation where the rural (and heavily Indian) schools suffer from disastrously low funding levels. These issues bear mention, but more important issues relevant to the Creek Nation and the Five Civilized Tribes bear detailed discussion.

As you and your legal staff are undoubtedly aware, the April 26, 1906 Act for the final disposition of the Affairs of the Five Civilized Tribes of Indians in the Indian Territory, and for other purposes, is the last piece of comprehensive legislation affecting the affairs of the Creek Nation, along with the Seminoles, Choctaws, Chickasaws and Cherokees. In Section Ten, the Act reads:

> "That the Secretary of the Interior is hereby authorized and directed to assume control and direction of the schools in the Choctaw, Chickasaw, Cherokee, Creek and Seminole tribes, with the lands and all school property pertaining thereto ... until such time as a public school system shall have been established under Territorial or State government, and proper provision made thereunder for the education of the Indian children of said tribes." (emphasis added)

The Creek Nation asserts that "proper provision ... for the education of the Indian children of said tribes" has never been made, and shall not be made, until a Creek Nation educational system which meets the needs of the Creek Nation is fully and irrevocably established or re-established.

The educational systems of the Creek Nation and the other four of the Five Civilized Tribes before statehood are well documented: producing a 100% literacy rate (in either English or the respective Indian language) and annually producing more tribal college graduates among the Five Tribes than were produced by the entire citizenship of the neighboring State of Texas. It was only by misrepresentation and political pressure that these educational systems were first taken from the tribes without authorization and later such action legitimized by the 1906 Act.

The effect of this federal policy upon the Creek Nation has been devastating. A recent statistical analysis of social and economic conditions among Indians in the Creek Nation, the Creek Nation Socio-Economic Census of 1975, showed that the main educational level was 10 years, 6 months, and that the median educational level was 10 years 1 month. This is not evidence which can be construed as the "proper provision ... for the education of the Indian children of said tribes."

Proper federal legislation to correct this and other gross deficiencies of the 1906 Act is needed desperately, and the Creek Nation is prepari

Commissioner Thompson
October 28, 1976
Page Two

drafts for proposal to the 95th Congress for changes in this and other federal law.

I would like to repeat my support of the NTCA position papers and their strong emphasis upon tribal sovereignty. If I can be of furth assistance in these matters, do not hesitate to contact me personall Please distribute this letter to the proper administrators.

Sincerely,

Claude A. Cox
Principal Chief

CAC:lw

cc: Honorable Dewey Barlett, Senator from Oklahoma
Honorable Henry Bellmon, Senator from Oklahoma
Honorable Ted Risenhoover, Congressmen from Oklahoma
Division of Tribal Affairs
Division of Community Services
Division of Human Resource
Executive Director
Central Records

RESOLUTION

WHEREAS, The Inter-Tribal Council of the Five Civilized Tribes is highly distrubed by reports of major changes planned in direction and control of Indian education programs without consultation with Indian leaders and Indian people, and

WHEREAS, among the most undesirable changes are the removal of educational programs from line authority of Area Director and placing post-secondary schools under direct control of Director of Indian Education Programs, and

WHEREAS, the Indian leadership of Eastern Oklahoma has consistently supported the concept of consultation and cooperation in planning the implementation of Indian programs, and

WHEREAS, The Inter-Tribal Council of the Five Civilized believes the consumation of such plans will be in direct conflict with the intent and purpose of Indian self-determination, and

WHEREAS, by telegram dated June 4, 1976, the President of the Inter-Tribal Council of the Five Civilized Tribes addressed the Commissioner requesting an early response as to the validity of this report, and

WHEREAS, as of July 9, 1976, the Commissioner of Indian Affairs has not responded to the telegram.

NOW THEREFORE BE IT RESOLVED: That the Inter-Tribal Council of the Five Civilized Tribes goes on record by resolution advising the Commissioner of the Indian Affairs that they expected a response to the telegram and are displeased with him for not responding.

Adopted this 9th day of July 1976 at Arrowhead Lodge, Canadian, Oklahoma.

Overton James

Overton James, President

ATTEST:

Elizabeth C. Sullivan, Acting Secretary

Phoenix Area Inter-Tribal School Board
TERRANCE F. LEONARD, Chairman

Phoenix Area Office
P.O. Box 7007, Phoenix, Arizona 85011
TELEPHONE (602) 261-4101

August 11, 1976

Memorandum

Through: Secretary of the Interior

To: Commissioner of Indian Affairs
Attention: Director of Indian Education Programs

From: Chairman

Subject: Proposed Organization Structure of the Office of Indian Education Programs

We invite your attention to the enclosed Phoenix Area Inter-Tribal School Board Resolution.

The Phoenix Area Inter-Tribal School Board has authority to speak for all of the 45 tribes within the Phoenix Area Office jurisdiction.

Your response within seven (7) working days to the requests contained in this Resolution is anticipated.

cc: All Tribal Chairmen, Phoenix Area

Phoenix Area Inter-Tribal School Board
TERRANCE F. LEONARD, Chairman
RT. 1 - BOX 109
SCOTTSDALE, ARIZONA 85256
TELEPHONE (602) 261-[illegible] 4101

Resolution 876 A

WHEREAS, the Phoenix Area Inter-Tribal School Board, being authorized representative of the Indian Tribes within the administrative jurisdiction of the Phoenix Area Office, Bureau of Indian Affairs for the development of and assurances for educational opportunities for all Indian Youth, and,

WHEREAS, the organizational structure of educational programs in the Bureau of Indian Affairs has been approved, and,

WHEREAS, the proposed reorganization is major and massive and is more than the implied restructuring of Education Central Office, and,

WHEREAS, the proposed reorganization was presented to the Phoenix Area Inter-Tribal School Board and the Consortium of Boards of Regents of the three post-high schools prior to their being presented with an impact study for their review, and

WHEREAS, the proposed reorganization is considered to be contrary to and not within the spirit of recent Bureau of Indian Affairs moves to support self-determination and the strengthening of tribal governments, and,

WHEREAS, there has been no visable effort to obtain tribal participation in the process of the reorganization,

NOW THEREFORE BE IT RESOLVED that the Phoenix Area Inter-Tribal School Board at an Annual Session on August 4-6, 1976 took action to strongly oppose the current reorganizational structure of the Washington Office of Indian Education Programs.

BE IT FURTHER RESOLVED, that the Phoenix Area Inter-Tribal School Board pursuant to the policies of P.L. 93-638, (Indian Self-Determination Act) requests that the Office of Indian Education Programs reconsider the implementation of the reorganization.

Vote on Motion to draft above Resolution: 18 in favor 0 opposed

Terrance F. Leonard
Chairman

Attest:

Betty J. Nevay
Secretary

Affiliated Tribes of Northwest Indians

RESOLUTION 1976-24

WHEREAS, the Affiliated Tribes of the Northwest Indians, in consideration of the purpose and intent contained under the language of Public Law 93-638, which includes the Indian self-determination concept; and,

WHEREAS, the Affiliated Tribes of the Northwest Indians, during its special meeting, at Portland, Oregon, on December 6-7-8, 1976 drafted and presented to Dr. William Demmert, a position paper, expressing our concerns under a six point critique related to the proposed change of policy within the Branch of Education, the Bureau of Indian Affairs, stressing our concern and opposition, there to; and

WHEREAS, the statement further includes Dr. Demmert's refusal and failure to attend certain meetings or to consult with the various tribe or Indian organizations, which were directed to a crucial change of educational policies within the Bureau.

NOW, THEREFORE, BE IT RESOLVED, that the Affiliated Tribes of the Northwest Indians do, hereby, express its strong opposition to the proposed changes of educational policies of Dr. William Demmert, Chief of the Branch of Education, Bureau of Indian Affairs and that such tribes or Indian organizations be given ample time and opportunity to be consulted with in relation to such proposed policy changes.

BE IT FURTHER RESOLVED that the adopted Position Paper developed by the Affiliated Tribes of Northwest Indians dated December 7, 1976, is hereby attached to and made a part of this resolution

CERTIFICATION

The foregoing resolution has been adopted at the Special Executive Session of the Affiliated Tribes of Northwest Indians, December 6, 7, and 8, 1976 at the Cosmopolitan Motor Hotel, Portland, Oregon.

Executive Director

President

Affiliated Tribes of Northwest Indians

"POSITION PAPER"
DEVELOPED
BY AFFILIATED TRIBES OF NORTHWEST INDIANS TO
DR. BILL DIEHMERT
DECEMBER 7, 1976

"Congress left no doubt that the expression of need, that the participation by Indians, that the determination of needs and desires, and that the planning and conduct and administration of programs and services were to be through tribal governments." These words were spoken by LaFullette Butler in his address to NIEA, September 1976.

The language in 93-638 leaves no doubt that the planning and conduct and administration of programs are to be through tribal governments. It is the unamious feeling of the Northwest Affiliated Tribes that your office has not been following the mandates of the Indian Self-Determination and Education Assistance Act as stated in the Declaration of Policy.

~~To be raped, cheated, and double-crossed by white people would be understood, perhaps, by the Indian Tribes, but to have this corruption lead by a fellow Indian is incomprehensible.~~

It is the feeling of the Northwest Affiliated Tribes that their input was not solicited in the Central Office's decision to do the following:

1. Remove higher education findings from the 1977 Band Analysis.
2. Reorganize your Central Office of Indian education programs.
3. Take unlimited amount of higher education funds for special projects. These projects are unrelated to tribal needs and erode the funds necessary to send our Indian Students to college.

4. Cut back the use of appropriated higher education funds at the tribal level to 50% for the school year 1976-77.
5. Not to inform us of the shift, and changes in programs to conform to your new organizational structure.
6. Not to meet with us at arranged meeting times and seek our participation as mandated in Sec. 3(a) in Declaration of Policy of 93-638.

It is the feeling of the Northwest Affiliated Tribes that you have treated them poorly: Examples of the poor treatment are as follows:

1. By your refusal to acknowledge calls from the Indian people in our area.
2. Your failure to attend the annual Northwest Indian Education Conference at Lewiston, Idaho in September 1976.
3. Your failure to attend the Annual Northwest Affiliated Tribes meeting at the end of September 1976, in Spokane, Washington.
4. Your failure to attend this meeting for a full day as you promised at the Seattle meeting, October 5, 1976.
5. Your not keeping your promise to send a detailed, current, plan of what is happening in education, that your higher education policies are, out in the field.
6. Your leaving the Northwestern Tribes out of the meeting held in Denver in November 1976, to get recommendations for higher education policy changes. Tribal governments were not informed about the meeting and the mandate of 93-638 was thus not followed.
7. Your continued failure to include organized tribes in your policy review meeting.

NP 76-378

RESOLUTION

WHEREAS, the Nez Perce Tribal Executive Committee has been empowered to act for and in behalf of the Nez Perce Tribe, pursuant to the Revised Constitution and By-Laws, adopted by the General Council of the Nez Perce Tribe, on May 6, 1961 and approved by the Acting Commissioner of Indian Affairs on June 27, 1961; and

WHEREAS, THE NEZ PERCE TRIBE, HAVING BEEN INFORMED OF THE PROPOSED CHANGE OF POLICY WITHIN THE BUREAU OF INDIAN AFFAIRS IN WHICH DIRECT BUREAU OF INDIAN AFFAIRS SCHOLARSHIP APPLICATIONS ARE TO BE REVIEWED AND APPROVED THROUGH THE CENTRAL OFFICE, WASHINGTON, D. C.; AND

WHEREAS, THE CURRENT POLICY PROVIDES REVIEW AND APPROVAL THROUGH THE LOCAL AGENCY LEVEL WITHIN THE RESPECTIVE AREA OFFICES OF THE BUREAU OF INDIAN AFFAIRS; AND

WHEREAS, THE CURRENT SYSTEM OF PROCESSING PROVIDES EXPEDIENCY AND UNNECESSARY DELAY OF APPLICATIONS FROM LOCAL STUDENTS WITHIN THE RESPECTIVE JURISDICTION OF SUCH AGENCIES; AND

WHEREAS, THE NEZ PERCE TRIBE FEELS THAT IF THE PROPOSED POLICY CHANGE IS PLACED INTO EFFECT WHEREBY STUDENTS APPLICATIONS FOR SCHOLARSHIP GRANTS ARE TO BE PROCESSED AT THE CENTRAL OFFICE LEVEL IT IS DEEMED A REVERSE POLICY OF THE 1930 ERA, AT WHICH TIME THE DECISION MAKING BODY WAS PLACED AT THE CENTRAL OFFICE LEVEL; AND

WHEREAS, THE NEZ PERCE TRIBE STRONGLY FEELS THAT SUCH CHANGE OF POLICY DOES NOT MEET THE MODERNIZATION OF ADMINISTRATIVE PROCEDURES AS HAS BEEN PROPOSED BY THE BUREAU OF INDIAN AFFAIRS AND, IN FACT, IT WILL BE A BACKWARD STEP IN BUREAU ADMINISTRATION; AND

WHEREAS, THE DELEGATION OF AUTHORITY TO THE RESPECTIVE AREA OFFICES AND THE LOCAL AGENCIES THERETO HAS DEMONSTRATED EFFICIENCY AND CLOSER RELATIONSHIP WITH THE TRIBE'S CONCERNS.

NOW, THEREFORE, BE IT RESOLVED, THAT THE NEZ PERCE TRIBAL EXECUTIVE COMMITTEE BY THIS RESOLUTION EXPRESSES ITS OPPOSITION TO SUCH CHANGE OF POLICY WHICH DIRECTLY RELATES TO SCHOLARSHIP GRANTS OF INDIAN STUDENTS AND DELEGATING AUTHORITY OF APPROVAL TO THE CENTRAL OFFICE.

BE IT FURTHER RESOLVED, THAT THE NEZ PERCE TRIBAL EXECUTIVE COMMITTEE REQUESTS THE VAROUS INDIAN ORGANIZATIONS TO EXPRESS ITS OPPOSITION TO SUCH POLICY CHANGE.

NP 76-378

RESOLVED, that the Commissioner of Indian Affairs is hereby requested to give his consideration of disapproval of such policy change on the basis of the above contentions.

CERTIFICATION

The foregoing resolution was duly adopted by the Nez Perce Tribal Executive Committee meeting in regular session August 10, 11, 1976, in the Tribal Conference Room, Lapwai, Idaho, a quorum of its members being present and voting.

ATTEST:

By: Alta A. Guzman
Alta A. Guzman, Secretary

Richard A. Halfmoon
Richard A. Halfmoon, Chairman

Short [illegible] (2K- 4/c)

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION
Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006
202 - 343 9484

September 23, 1976

Honorable Morris Thompson
Commissioner of Indian Affairs
Bureau of Indian Affairs
1951 Constitution Avenue, N.W.
Washington, D.C. 20245

Dear Commissioner Thompson:

The Education Committee of the National Tribal Chairmen's Association would like to make available to you two papers synthesizing policy positions formulated at our June and August Education Committee meetings. We hope that as you undertake the formulation of education policy in the Bureau of Indian Affairs and the organization of the Office of Indian Education Programs these papers will be of assistance to you.

As chairman of the Education Committee I would like to invite you, the Deputy Commissioner, and the Director, Office of Indian Education Programs to attend our next board meeting. We will advise you as soon as possible of the date, time and place of the meeting. We look forward to working with you to improve educational opportunities for all members of federally-recognized Indian tribes in ways that will strengthen tribal self-determination and tribal control.

Sincerely yours,

Lawrence Snake

Lawrence Snake
Chairman, NTCA Education Committee

Enclosure

cc: Deputy Commissioner
Director, Self-Determination Staff

(Continue)

Assistant to the Commissioner, Sid Mills
Director, Office of Indian Education Programs
Director, Policy Planning Staff
All Central Office Directors
All Area Directors (With request to distribute to all Agency Superintendents)
All NTCA Officers and Area Representatives
All NTCA Tribal Chairmen
Indian Affairs Subcommittee of the Senate Committee on Interior and Insular Affairs
Elementary, Secondary, and Vocational Education Subcommittee of the House Committee
  on Education and Labor
Yvonne Franklin, Minority Staff Investigator, House Committee on Education and Labor

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006
202 – 343-9484

National Tribal Chairmen's Association Policy Paper
Education Committee
August 1976

At the August meeting of the NTCA Education Committee, the reorganization of BIA education programs was discussed indepth and positions on several issues that relate to BIA educational policies were formulated.

The NTCA, as the organization of elected or appointed leaders of federally-recognized tribes, must be made fully aware of all aspects of pending changes in policy scope in regard to BIA education. NTCA must have a minimum of six weeks time to evaluate and consider possible changes and impact on our tribal members before reaching consensus on changes in policy recommendations to be made to the BIA Commissioner. The recent reorganization of education programs was made without the above full process taking place. While the NTCA Education Chairman was present at the BIA education reorganization briefing meeting, there was not sufficient time or materials given to later adequately inform all Tribal Chairmen and Education Committee members of the impact of the impending changes before the changes were actually made.

Since BIA exists to provide services to the federally-recognized tribes, the NTCA Education Committee reiterates strongly that the BIA education must respond and relate only to the federally-recognized tribes. At the recent education reorganization briefing meeting there were representatives of several organizations invited that do not represent the federally-recognized tribes and in some cases whose interests and constituencies are even opposed to the sovereign status of the federally-recognized tribes. All of these other organizations accept some members who are not from federally-recognized tribes. Therefore, their interests are not always consistent with the aims and purposes of the federally-recognized tribes and NTCA.

The BIA and all other federal agencies must not circumvent the tribal councils of the federally-recognized tribes when granting monies or contracts for all services including educational programs to Indian people. To do otherwise undermines and erodes the sovereign status of the federally-recognized tribes. The purpose and spirit of the Indian Self-Determination and Education Assistance Act is that direction of education is firmly the prerogative of the tribe. We insist that BIA education comply with the Act by awarding direct monies to "Indian organizations" only with the express consent and the approval of the tribes. We further insist that BIA education comply with the purpose and intent of the Act by consulting with tribal governments before awarding any monies or programs even should tribes decide that they do not wish to contract, but that they would rather have the Bureau continue to deliver educational services in accordance with tribal direction.

We are becoming convinced that the term "community" and the context in which it is applied may be only appropriate to non-Indian minorities and may be counterproductive to tribal government. We submit that "tribe" should be substituted for "community," as in "community controlled schools." Blacks, Chicanos, Puerto Ricans and Asians need the rubric of community control (since they do not have tribes). American Indians are members of tribes and will be served by tribal control and management. A growing way to effect increased tribal control is the establishment of divisions of education within the structure of tribal government.

Many tribes such as the Blackfeet, Ft. Peck Assiniboine and Sioux, Standing Rock Sioux, Navajo, Mississippi Choctaw, etc., are establishing or have established tribal divisions of education that would coordinate and have under tribal government authority all education programs that serve tribal members.

A corollary of this position is that BIA must not award educational monies that include scholarships to colleges or universities that define "American Indian" in loose and irresponsible terms. All colleges and universities that expect BIA monies for scholarships must use the BIA definition of American Indian. BIA recieves monies from the Congress only for the federally-recognized tribes. We know that nearly 1/3 of the total BIA budget is allocated for education. We do not want leakages of this money to go to persons not members of federally-recognized tribes.

We wish to review this entire area of BIA grants to colleges and universities for post-secondary programs. We wish to review the research grants that have been made and make recommendations for future research grants. We wish to make recommendations for tribally controlled colleges to assure equitable apportionment of funding. NTCA is deeply concerned with educational equity for all the tribes.

We lament that again the BIA failed to provide adequate time for consideration of the JOM funding policy changes. This is a blatant example of failure to consult tribes on critical issues which affect them and a violation of the principle of the Indian Self-Determination and Education Assistance Act.

The NTCA Education Committee recommends that the Commissioner, the Deputy Commissioner, and the Director, Office of Indian Education Programs be invited to attend our next regular board meeting. We wish to discuss several areas including the following: the impact of the BIA education reorganization; an advisory board to education policy in the BIA; assurances that no BIA money goes to non-federally recognized tribes or to schools or organizations that serve non-federally recognized tribal members; equity in apportionment of funding to all federally-recognized tribes' educational programs; NTCA direction into the criteria for selecting members of the boards of regents to Southwestern Indian Polytechnic Institute, Institute of American Indian Arts and Haskell; and assurances that the BIA will not circumvent tribal governments in providing educational contracts and services to schools located on the reservations and day schools and boarding schools.

NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Suite 207 1701 Pennsylvania Avenue, N.W. Washington, D.C. 20006
202 – 343 9481

August 18, 1976

National Tribal Chairmen's Association Policy Paper
Education Committee
June 1976

I. Issue - Federal Education Grants

Federal agencies including the Bureau of Indian Affairs, the National Institute for Education, the Office of Native American Programs, the Office of Indian Education, the National Institute of Mental Health and other offices, bureaus and centers are circumventing the inherent authority of the federally recognized tribes in numerous instances by giving grants to non-tribal organizations for educational programs that would serve tribal members. Educational programs include the areas of training, research, technical assistance, evaluation and consultation. These grants go to both non-Indian and Indian organizations and most often these organizations have not bothered to seek tribal sanction or endorsement.

Non-Indian colleges and universities receive enormous amounts of federal monies ostensibly to provide training and other services to tribes. These universities receive large amounts of scholarship and stipend monies from the Office of Education and other agencies, including foundations, that should be going through the education and financial structure of the tribes and thence on to the tribe's members. The tribes' sovereignty, it's authority, it's core of self-determination are being undermined by this blatant circumvention. Since we realize that education means dollars, we are aware that these operating and overhead monies could mean a great deal to the economic stability of the tribes.

Many institutions and organizations seek to circumvent the tribal authority by appointing Indians to their Boards of Directors or by selecting an Indian advisory board for their project or program. Often these boards are composed of the same non elected members, year after year.

We believe that this practice of denying tribes the direction and management of their own educational programs is wrong and must cease.

THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION POSITION

Federal agencies and foundations must respect the inherent authority and sovereignty of the federally recognized tribes. They must require a resolution of support and endorsement from the affected tribe before granting monies to both Indian and non-Indian organizations, colleges and universities. Individual tribes must have initial and on-going input into the project or program.

In the event that National Indian studies, research, training, technical assistance, evaluation and other grants are to be conducted, then the National Tribal Chairmen's Association must be consulted.

Instead of being done to, we want to do with.

II. Issue - Eligibility

There are too many American citizens who are declaring themselves to be American Indians in order to be eligible for monies intended for American Indian tribal members and for preference in hiring.

The definition of Indian has become so broad as to be almost meaningless. Over 20 federal agencies have different and sometimes conflicting definitions of who is an American Indian. These agencies, such as Office of Native American Programs and Title IV Office of Indian Education have not adequately consulted with the federally recognized tribes in developing their definitions of eligibility for millions of dollars of grant monies intended for American Indian tribal members.

The fifty states have vague definitions of who is an American Indian.

The consequences of the many vague, broad and conflicting definitions of who is an Indian, and who is eligible for monies intended for Indian tribes are that monies are being wasted, programs are being diluted and tribes who are recognized under federal jurisdiction are being denied the full use of Indian monies.

THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION POSITION

American Indians are only those persons who are members of federally recognized tribes. Such tribes shall determine their own membership.

Federal agencies, states and other organizations such as foundations must accept the above definition and modify by amendment of rules and regulations any divergency.

III. Issue - BIA Education Planning

There is not now a viable Master Plan within the BIA for the future operation and management of BIA schools, especially boarding schools.

Indian tribes are lacking in real control of these schools. Tribes have very little say in the areas of staffing, curricula, policy, priorities and budget. Issues such as multi-tribal contracting for specialized schools and area schools, the value of Civil Service teaching positions, etc., are critical to our tribes.

THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION POSITION

The NTCA Education Committee must be consulted in any future planning regarding Indian Education and particularly regarding BIA boarding schools. The NTCA Education Committee must review and comment on the now completed study on the management of BIA Education Programs.

IN REPLY REFER TO:
Education

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Fort Defiance Agency
Fort Defiance, Navajo Agency, Arizona 86504

NOV 2 1 1977

Honorable Michael T. Blouin
Chairman, Advisory Study Group on
Indian Education
House of Representatives
Committee on Education and Labor
2181 Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

In reply to your request of November 2, 1977, I am submitting the following:

Question 1 - Do you feel that this Bill will further Self-Determination by allowing for gradual phasing in of Indian Control? Will it remove some of the termination stigma?

> Self-Determination will be enhanced by the reorganization of the Bureau of Indian Affairs but it won't be full Self-Determination because the money is still being controlled by Washington.
>
> H. R. 9157 will not eliminate the termination stigma because if you follow the Self-Determination to its logical conclusion, eventually Washington will only be giving funds directly to the Indians and then in actuality, will not be providing the services as outlined in existing treaties. Therefore, somewhere down the line, 10-20 years, this will make the treaties null and void.

Question 2 - Should H. R. 9157 become law, how well it works in actual practice will depend a lot on how the regulations are written. How would you suggest the regulations be written as they apply to reorganization? What kind of input is needed, and from whom, to assure that the regulations are written to address the intent of the law?

> The regulations should be written in plain common self-explanatory English and should be addressed to the governmental structure of the Bureau of Indian Affairs and to the line of authority from the bottom level to the Washington level with no shadow lines

as it is now. In most instances, government regulations are written in a confusing double-meaning and ambiguous manner allowing guessing on the interpretation along the various levels. After the bill becomes law, input should be solicited from those remaining agencies which have not been eliminated.

Those Bureau people who testified in Washington, D. C. on the bill during the hearings should also be asked for input since their interpretation was different from the writers of the bill. It is my feeling that if the writing of the regulations is left entirely to the Washington Office, their work will restrict the intent of the law.

Question 3 - On page two of your prepared text before the Subcommittee you stated that education should be a "subdivision separate from the Bureau." Could you elaborate on this?

The sentence reading "subdivision separate from the Bureau" was in error as submitted in the testimony. The intent was that the functions and responsibilities dealing directly with education should be transferred to the Director of Education. As an example - those people within Social Services dealing with Special Education should be transferred to the Division of Education. Adult Education is another example - it is an educational function which is normally a part of any school system and the Bureau of Indian Affairs has it under Employment Assistance.

Question 4 - On page 1 of your statement, you voiced a need for definite "chains of command." Do you feel H. R. 9157 is pretty clear on this point? Please elaborate.

The answer is no. There are no definite chains of command for the Bureau of Indian Affairs employees whether Civil Service or contract. A chain of command as we interpret it is:

Director

School Superintendent

Principal

however, in the bill all that is stated is "that the Director of Education shall direct and supervise all personnel within the Bureau...".

It is a pleasure in being able to assist you in your endeavors to reorganize the Bureau of Indian Affairs. Please feel free to call on me again in the future.

Sincerely yours,

Ernest E. Ingraham

Ernest E. Ingraham
Assistant School Superintendent
Fort Defiance Agency

Ray Sorensen

1. QUESTION

Why is it important for Tribal Governments to set priorities as to funding levels and program content in education?

ANSWER

Education is one of the most important functions of a government. Executive and Congressional policy for the past several years has been to strengthen tribal governments through the self-determination process. The very nature of the relationship between the Federal Government and tribal governments require that we allow the processes of tribal government to function. In the development of the Bureau's budget, tribes are given the opportunity to prioritize among the several Bureau programs as to funding levels. The Indian Self-Determination Act provides that tribes can if they wish redesign education and other programs.
I believe we should be supportive of tribes in their desire to obtain the proper mix of education and other social and economic progress for their people.

2. QUESTION

Is the present Bureau of Indian Affairs organization and system for delivery of educational services manageable?

ANSWER

Yes, if the basis for the organization and system is understood and accepted by management at all levels of the Bureau. No organization or system will work if it is not understood and accepted by the key people in the organization. We have not had top education management in the Bureau in almost ten years that understood and accepted the system that provides a role and function for Indian tribal governments at all levels - school, agency, area, and central office.

3. QUESTION

Under the concept of Tribal sovereignty what should be the role of parent advisory committees and school boards?

ANSWER

In order to keep continuity of tribal programs, the authority for the control of a school must be kept at the tribal level. The definition of Parent Advisory Councils and School Board in my opinion would have to be redefined because of the unique structure of the tribal governments. Corrections are necessary in order to provide continuity to the tribal government programs. It must be clarified as to the specific functions of each group, therefore it is most important that tribal input be involved as to the specific guidelines for these two groups.

4. QUESTION

What should the Bureau of Indian Affairs, Division of Education do to improve educational services to Indian people?

ANSWER

The Bureau should and must provide data that is meaningful to Indian communities. The Bureau must provide information as to the strengths and weaknesses of the educational system that is provided by the Bureau. In order to provide community involvement, an adequate information system must be developed to insure proper input from the local communities. By providing such a system, the communities can grow with the school and can provide various alternatives to the system. Flexibility must be provided for within the educational system because each tribal educational system may have a different approach to education. However, models can be developed for Indian education so that Indian communities can make their own decisions. Of course, this is only one area that is being addressed. ~~Listed below are~~ Other areas that could be included: are:

a. A concerted effort in the training of local school boards and advisory school committees in roles and responsibilities.

b. An alternative system for the provision of teachers in day and boarding schools.

c. A careful review of tribal educational priorities.

5. QUESTION

Is it possible for the Bureau of Indian Affairs to get tribal involvement for determining education priorities?

ANSWER

Yes. For too long the Bureau has involved the tribes in a perfunctory manner. The Bureau has not listened to the tribes as to what their priorities are. Many times, we approach the tribes and ask them for an on-the-spot **"tell me what your priorities are in education." This must change. We must design a system that will give guidance and proper administration of both the off-reservation boarding schools and day schools on the reservations. The mechanism for tribal involvement has been established through P.L. 93-638: Let's put it to use by involving the tribes in determining educational priorities.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
102-01a(2) OPM 16

NOV 21 1977

Mr. Michael T. Blouin, Chairman
Advisory Study Group on Indian Education
Committee on Education and Labor
House of Representatives
Washington, D. C. 20515

Dear Mr. Blouin:

I am pleased to respond to your letter of November 2, 1977 to answer, for the record, several questions which you were unable to ask during my appearance before the Subcommittee on Elementary, Secondary and Vocational Education on September 28, 1977. I will respond to your questions as you have presented them. If you desire further information or clarification, please feel free to contact me.

1) The testimony you presented before the Subcommittee is directed substantially to stating the management steps to develop staff ability to help tribes run programs. What have been the results and give examples? How much of an increase has there been in contracting and what reviews have been involved? What types of input does the tribe have in its band analysis review? What is the length of time for tribal review? Have tribal reactions and wishes been forwarded to the central office? If so, how?

Since FY 1975, the number of Buy-Indian and P.L. 93-638 contracts in the Aberdeen Area have increased from 216, with a dollar amount of $15,967,633.00 to 288, with a dollar amount of $21,926,203.00 during FY 1977.

Enclosed is a detailed break down of contracts for FY 1975, 1976 and 1977. We believe that contracting has become an instrument for greater Indian involvement in the conduct of their own affairs and a vehicle for tribal assumption of responsibility for Bureau of Indian Affairs program activities. The increase in contracting within the Aberdeen Area is, therefore, believed to be an indication of the desires of the tribes to involve themselves in their own affairs and to determine their direction.

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

Page 2

We have five (5) Contract Specialists who periodically make on-site monitoring trips to check on the progress of contracts and offer technical assistance as needed to all Contractors, which includes tribes and tribal organizations. The program directors and the Contracting Officers Representative at each agency also review the progress of the individual contracts.

Tribal participation and input in program planning is encouraged early in the planning cycle. Enclosed are copies of the following Aberdeen Area Office memoranda which request tribal participation in the FY 1979 program plan and Band Analysis processes. You will note that communications started in January 1977, included workshops at each Tribal and Agency location during April and May 1977 and gave the agency and tribe until June 20, 1977 to complete and review their Band Analysis.

Date	Memorandum No.	Subject
January 13, 1977	85-163	Tribal Participation in Developing the FY 1979 Program Plan and Band Analysis
February 14, 1977	85-165	Budget Estimates for FY 1978
March 17, 1977	85-167	Trip Report Concerning Development of the FY 1979 Program Plan
March 21, 1977	85-169	Tentative FY 1978 BIA Funding
March 23, 1977	85-170	FY 1979 Band Analysis
May 27, 1977	85-173	FY 1979 Band Analysis Instructions
June 8, 1977	85-175	Preparation of the FY 1978 and 1979 Program Plans (PPE)

Also enclosed is a complete submission of the Rosebud Agency Band Data forms package for FY 1979. This is an example of how tribal reactions are handled through the agency management system, to arrive at a decision package which is acceptable to all parties concerned. These reactions and wishes were forwarded to the Washington Office on June 20, 1977.

We are also enclosing the following Tribal Resolutions which indicate tribal wishes to have the Higher Education Scholarship program included in the band analysis priority setting process. These Resolutions were forwarded to the Central Office as indicated in the Aberdeen Area Office transmittal memorandum attached to each resolution:

Date	Resolution No.	Tribe
June 8, 1976	76-53	Winnebago Tribe of Nebraska
August 6, 1976	120-76-CR	Cheyenne River Sioux Tribe of South Dakota
September 23, 1976	519-76	Standing Rock Sioux Tribal Council
October 7, 1976	1030-10-76	Turtle Mountain Band of Chippewa Indians

2) Has the Area Office, in the past, received sufficient policy guidance and aid? What is the current educational goal of the Aberdeen Area?

We feel that we have not received sufficient policy guidance in the area of education that would have been of great help to our office. As a result of this lack of policy assistance, we have had to seek Central Office policy guidance on an individual case by case basis. Unfortunately, in many cases we have not received any positive direction that we could use to handle these situations. From this lack of response for policy guidance, our office has had to make judgment decisions to solve the immediate problem; and some cases we are concerned as to whether our decision is in line with the overall Bureau policy on that particular issue in question.

The lack of adequate communications from the Central Office on program commitments has caused misunderstandings on our part in attempting to carry these commitments to completion.

ABERDEEN AREA EDUCATIONAL GOALS:

The Aberdeen Area is committed to an educational program that will provide the Indian students an opportunity to enhance and enrich their lives in preparing for the future.

Sincerely,

Area Director

Enclosures - 13

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA
FY 1975, 1976 and 1977
BUY INDIAN and PL 93-638 CONTRACTS

FISCAL YEAR	CONTRACT TYPE	P.L. 93-638	BUY INDIAN	TOTAL CONTRACTS	TOTAL AMOUNT
1975	Education		51	51	$ 8,030,946.00
	All Others		165	165	7,936,687.00
	TOTALS		216	216	$15,967,633.00
1976	Education	34	38	72	$11,920,000.00
	All Others	104	70	174	8,363,000.00
	TOTALS	138	108	246	$20,283,000.00
1977	Education	41	54	95	$10,182,379.00
	All Others	89	104	193	$11,743,824.00
	TOTALS	130	158	288	$21,926,203.00

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:

Management Support
103

JAN 13 1977

Memorandum No. 85-163

To: All Superintendents, Aberdeen Area
Field Representative, Flandreau Santee-Sioux Field Office
All Tribal Chairpersons, Aberdeen Area
Office Directors, Aberdeen Area Office

From: Office of the Area Director

Subject: Tribal participation in developing the FY 1979 Program Plan and Band Analysis.

The Washington Office is beginning to develop instructions on the FY 1979 program plan and is asking for suggestions from Tribes and Agencies for improving tribal input to the budget process.

One very important aspect in program planning is complete participation and input of the tribes. The development of a program plan based on tribal priorities will be vigorously pursued.

The Band Analysis has been incorporated into our budgetary process as a tool to reflect local tribal priorities among Bureau funded programs. We continue to emphasize to the tribal groups that their local priorities can be measured through the Band Analysis. We firmly believe that all funds should be included in the band analysis process to get maximum tribal input in establishing the overall Bureau program.

Each Superintendent is requested to review the answer sheet attached to the Washington Memorandum of January 5, 1977 with your tribal officials. Let's take advantage of this opportunity to offer suggestions for improving tribal input to the budget process.

Please return the completed answer sheets to this office for the attention of Management Support by February 1, 1977.

Area Director

CONSERVE AMERICA'S ENERGY

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UNITED STATES GOVERNMENT

Memorandum

[illegible]

TO : Area Directors

DATE: JAN 5 1977 1-10-77

mj 1-10

[illegible] 1-10

Acting Deputy

FROM : Commissioner of Indian Affairs

SUBJECT: FY 1979 Band Analysis

The Bureau has used the Band Analysis as a tool to get local Indian input into the budgetary process. It has provided the basis of determining program funding levels and the means for distribution of most of the on-going operating programs in the field during the past few years. We plan to continue using the band analysis. However, it needs continuing review and update. One of the continuing needs is to determine which programs should be added to the band analysis or removed from it. We have had considerable input from the field on this subject. Various tribal resolutions, memorandums and informal expressions have been received. We think it is better to collect the views of both tribal and Bureau officials more systematically.

Enclosed is an answer sheet with some tables which should be completed by each Area Director, Agency Superintendent and as many tribes as you can get to complete it. We would like the responses by February 7 so they can be used in designing the 1979 band. Return them for Attention of the Assistant Director, Financial Management.

Theodore C. Krenzke

Enclosure:

JAN 7 1977
BRANCH OF BUDGET

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

January 1977

INSTRUCTIONS

We want your views on which BIA programs should be on the band analysis for 1979, which will be coming out to you this Spring. As you recall, the purpose of the band analysis is to distribute limited funds among the various on-going programs at an Agency or Area Office. In this way the local priorities on program mix can be worked into the BIA budget. The basic requirements for a program to fit into this concept are:

1. It is part of a continuing activity at the location.
2. It can be traded off against other such programs.
3. It serves primarily the local jurisdiction.
4. The BIA will be able to follow the priorities expressed.

There are some things the band analysis is not intended to do. It does not, of itself, provide additional funds, but rather gives a choice in dividing whatever funds the BIA is able to secure. It is not intended to identify funds for new programs other than those on the band analysis where trade-offs can be made. Obviously, it will not over-ride Congressional mandates.

There are three points on which we would like your opinion. Please use the enclosed answer sheet. Add additional pages if necessary.

1. Table 1 lists the programs included on the 1978 band analysis. Do you think any of these should be removed from the band analysis in 1979? If so, indicate on the answer sheet. Also, for any program you think should be removed, please include any suggestions you may have on how the BIA total for the program might be determined, and how to distribute the funds among the locations.

2. Table 2 lists programs not on the 1978 band. Please indicate any which you would like to see added to the 1979 band. Also, for any program you think should be added, please include any suggestions you may have on how to set the 1978 base amount for use in the 1979 band.

3. If you have further suggestions for improving tribal input to the BIA budget, through the band analysis or in other ways, we would like to have them.

January 1977

OPINIONS CONCERNING PROGRAMS TO ADD OR REMOVE IN THE 1979 BAND ANALYSIS

Return to: Bureau of Indian Affairs,
Assistant Director, Financial Management
Washington, D.C. 20245

Name and Title of person responding________________________
Tribe, Agency, or Area Office____________________________
Date completed__________________

1. Programs to remove from the band (see table 1 for list of those on the 1978 band). Include your suggestions on how to make budget decisions for those removed.

2. Programs to add to the band (see table 2 for list of those not on the 1978 band). Include your suggestions on how to set the 1978 base.

3. Other suggestions for improving Tribal input to the budget process.

(Attach additional sheets as needed)

TABLE 1. PROGRAMS ON THE 1978 BAND ANALYSIS AT AGENCIES & AREA OFFICES

1. Education & training--general
2. School operations
3. Additions * to regular JOM
4. Direct instruction
5. Informal learning
6. Residential center training
7. Vocational training--institutions
8. Higher education institutional assistance (Navajo Community College, Lakota, Sinte Gliska)
9. All other career development
10. Special education experiences
11. Community services--general
12. Agricultural extension
13. Other aid to tribal Government (excludes comprehensive planning--see table 2)
14. Social service (excludes Welfare grants)

15. Additions * to tribal Courts
16. Additions * to detention
17. Additions * to Law Enforcement
18. Housing

19. Commercial development--general
20. Commercial Enterprise development
21. Credit and financing operations (excludes the loan, insurance, and subsidy funds)
22. Direct employment assistance (excludes OJT and Indian action teams--see table 2)

23. Road maintenance
24. Airstrip maintenance
25. Trust services--general
26. Environmental quality services
27. Other rights protection (excludes some parts -see table 2)
28. Real Estate services (excludes boundary surveys - see table 2)
29. Financial trust services
30. Natural resources--general
31. Agriculture

32. Forestry (omits Congressional add-on-see table 2)
33. Minerals and Mining (excludes some mineral inventories - see table 2)
34. Water resources
35. Wildlife and Parks
36. Facilities--general
37. Facilities, operation and maintenance
38. Executive direction
39. Program development and budget
40. Safety management services
41. All other administrative services

* Only additions to a base amount are included in the 1978 band analysis.

Table 2. PROGRAMS NOT ON THE 1978 BAND ANALYSIS
(In order by program element. 1978 method of distribution indicated in parentheses)

1. Scholarships (individual application; details of fund allotments to be determined).
2. Johnson O'Malley base funding (formula required by Federal regulations).
3. Previously private School operations (application).
4. Self-determination grants (formula).
5. Self-determination training and technical assistance (project application).
6. Comprehensive planning (project application).
7. Tribal Courts--base funding (plan).
8. Detention-base funding (plan).
9. Law enforcement--base funding (plan).
10. On-the-job training (project application).
11. Indian Action Teams (project application.The Office of Manpower & Budget has directed that this be included in the 1979 band).
12. Real estate services-boundary surveys (administrative determination).
13. Forestry improvement--Congressional add-on (formula based on backlog of needs).
14. Irrigation construction (Administrative determination within approved projects).
15. Major Alterations and Improvements (project lists).
16. Construction--roads (formula to Area level).

NOTE: The above list omits a few programs which do not fit the band analysis requirements. The main ones are:

Welfare grants and irrigation operation & maintenance (not under BIA control).
Construction B & U (not a continuing activity at a given location).
Mineral inventories (Nationally coordinated with Geological Survey and Bureau of Mines).
Rights protection litigation and services; Navajo-Hopi Office (Court required and not a continuing activity at a given location).
Central office operations (Bureau-wide services not allocable to field locations).
Revolving loan funds-direct & guaranteed loans (not a continuing activity at a given location; amount available depends on appropriations and repayments).

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
211

FEB 14 1977

Memorandum No. 85-165

To: All Superintendents, Aberdeen Area
All Tribal Chairpersons, Aberdeen Area

From: Office of the Area Director

Subject: Budget Estimates for Fiscal Year 1978

Enclosed is a copy of the Budget Estimates of the Bureau of Indian Affairs as they were prepared for review by the President for Fiscal Year 1978, which begins October 1, 1977.

These figures are only estimates as of September 15, 1976, and were changed by the President before he submitted his Budget to the Congress. The Washington Office letter of February 9, 1977 to all tribal chairmen indicated that they hope to provide you, within the next month, the funding as reflected in the President's Fiscal Year 1978 Budget. These tentative figures should be used for planning purposes only.

We shall continue to keep you informed of the progress of the BIA budget.

Harley D. Zephier
Area Director

Enclosure

CONSERVE AMERICA'S ENERGY

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United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
150

MAR 17 1977

Memorandum No. 85-167

To: All Superintendents, Aberdeen Area
Field Representative, Flandreau Field Office

From: Office of the Area Director

Subject: Trip Report Concerning Development of the FY 1979 Program Plan

Enclosed is a copy of a trip report to my office concerning the above subject.

Please note that the workshops on the setting of agency and tribal priorities are to be conducted by area and agency staff during the latter part of April and the month of May 1977.

I plan to personally attend as many of these workshops as my schedule will permit. The active participation of each Superintendent in the workshops is mandatory.

We are requesting each Superintendent to check with your tribal officials to receive information as to their preference of dates for conducting the workshops. Please ask them to set aside two or three hours for this presentation.

Please furnish this information to Management Support by April 15, 1977 so that an area wide schedule can be prepared.

Harley D Zephier
Area Director

Enclosure

cc: Each Tribal Chairperson, Aberdeen Area

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
130

MAR 14 1977

Memorandum

To: Area Director, Aberdeen Area Office

From: Director, Management Support

Subject: Trip Report

Dates of Travel: March 2-5, 1977

Place of Travel: Tahlequah, Oklahoma

Purpose: To Receive Instructions For Developing The FY 1979 Program Plan.

Contacts: Joe Gorrell, Assistant Director, Financial Management; Glen McLaren, Chief, Program Development and Implementation and Staff; Area Budget and Program Representatives from the Bureau of Indian Affairs; Doyce Waldrup, Acting Area Director, Portland Area Office; Thomas Ellison, Area Director, Muskogee Area Office.

Discussion Items: Workshop materials for the FY 1979 program plans were reviewed. This material is being reproduced by the Washington Office and copies are to be provided to us by April 15, 1977.

During the general discussion there were several items of significance mentioned by Washington Office Staff:

Budget Activity 3599 was discussed briefly by a Staff member from the Central Office in relation to the expenditure of funds for fiscal year 1977. It was indicated that FY'77 funds in budget activity 3599 could not exceed the amount received in FY'76 in this account.

Presently, new school construction cannot be obligated for FY'77 without House concurrence.

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

A Department of Interior Staff Representative indicated that when the Budget Program for the Department of the Interior is presented at hearings, it becomes very embarrassing and hurts the effort to achieve the budget proposal (Interior includes BIA) when letters are received by Senators and Congressmen from the field which indicates a lack of unity. For example, one area placed a low priority on Facilities Operation and Maintenance and after their program was implemented, they went around "the back door" so that they would have sufficient funding to take care of their buildings. The House Committee involved was very interested in knowing whether Government owned buildings are being maintained properly.

PPE:
The Funding and Staffing Forms of the PPE system will contain the following information in the funding columns:

FUNDING & STAFFING

FY 1977 Actual	FY 1978 Plan	FY 1978 Update	FY 1979 Plan
____________	____________	________	________
(Program amounts end of March 1977)	(Figures furnished last year, cross out if not current).	(New figures from current tentative figures).	(From target planning allowance column of 1979 Band).

The completed Funding and Staffing forms must be returned to the Data Center in Albuquerque, New Mexico by July 15, 1977, in order to be placed in the financial system.

Objectives type information is now being requested by OMB and Congressional Committees. The accuracy of the outputs in the PPE system is very important. It is especially important that we provide good statistical and supportive data which indicates how funds were expended in relation to results achieved.

Band Analysis:
It was indicated that 27 Tribes responded to the "Inquiry Concerning What Programs Should be on the 1979 Band Analysis." See the attached handout for a full description and tribal participation from the Aberdeen Area.

Additional funds may be added to the Band Analysis for FY 1979. Areas will do the dividing of the base for these programs. This will be based on the FY 1978 allocations by location.

Agency and Tribal workshops should be held between April 15 and May 15, 1977.

Agency and Area Office Band Analysis should be developed between May 15, 1977 and June 15, 1977.

Deadline for Band Analysis forms to be submitted to the Washington Office is July 1, 1977. This deadline must be met in order for PPE to be effective.

The Band Analysis is being followed in setting up FY 1978 programs. Priorities for FY 1979 will be based on target planning allowances. The Band Analysis is a "trade off" procedure.

Objectives of Band Analysis is to have decision making authority as close to the local tribal level as possible.

Unbanded Program Funds:

A Central Office Representative indicated that reserve program funding is available in the Central Office for FY 1977.

Road Construction will not be on the Band Analysis for FY 1979. Road Construction funds are divided on the basis of Indian Trust Land, population of the Reservation and road mileage. The census count being utilized presently is the 1970 census information. The Central Office funding distribution to the Area Office is based on the following formula. The distribution from the Area Office to the Agencies is on the same basis:

Indian Trust Land = 1/3

Population = 1/3

Road Mileage on BIA System = 1/3

Zero Base Budgeting:
Zero base budgeting is a form of participatory management and it may be possible to implement this program in FY 1979. ZBB will be implemented through a team or task force effort. ZBB ties right in with Management by Objectives (MBO). Planning processes, PPE, etc., are bound to be expanded and enhanced by ZBB. Some characteristics of ZBB are:

1. Is a Management Tool.
2. Must be motivated.
3. This process aids in selling programs.
4. It is a way of organizing material into decision packages.

5. It requires ranking of programs as to priority.

6. It measures deliverables (work accomplishments).

7. It makes a projection of a minimum level program.

8. It makes responsible managers. Managers are held accountable.

9. Managers must guard against it becoming a paper machine.

10. It provides managers with a tool for making sound judgements in the final analysis.

11. Good performance is rewarded. Consequences for poor performance.

12. People in the organization who resist change must be moved.

Office of Management and Budget Representative

1. OMB examines the Budget for BIA.

2. BIA did not receive any changes in President Carter's FY 1978 Budget.

3. The Department of Labor's CETA Program will probably be increased as larger amounts were requested in President Carter's Budget.

4. Cost/benefit analysis will be conducted on some programs immediately.

5. Probably will have reorganization Plans for the next four years. Program efficiency and effectiveness are main reasons for reorganizations.

Recommendations: It is recommended that a concerted effort be made to include all funds in the Band Analysis to get maximum tribal input in establishing the overall Bureau program.

Follow-Up Action: Upon receipt of instructions and workshop material we will distribute them to the Superintendents. Workshops should then be conducted with each tribe.

Name of Consultants:

Approved:

Joseph F.
Economist

Area Director

Merle Johnson
Director, Management Support

BIA Statistics
3/1/77

SUMMARY OF RESPONSES TO INQUIRY CONCERNING WHAT PROGRAMS SHOULD BE ON THE 1979 BAND ANALYSIS

The attached tables summarize the main results of the inquiry on this subject. There were 65 returns. They came from the following types of respondents: 11 tribes with their own Agency (Cheyenne River, Turtle Mountain, Southern Ute, Ute Mountain, Zuni, Flathead, Fort Peck, Minnesota Chippewa, Cherokee, Navajo, and Colville); 16 tribes in multi-tribal Agencies (Fort Sill Apache, Iowa, Cook Inlet Region, Alaska Federation of Natives, Grand Camp of Alaska Native Brotherhood, Kawerak, Red Cliff, Stockbridge-Munsee, St. Croix, Bad River, Cortina, Fort Bidwell, Los Coyotes, Santa Ynez, Soboba, and Trinidad); 32 BIA Agencies, many of which conferred with tribes in developing their replies; and 6 Area directors. In 3 other Area Offices replies were received only from program directors, and these were not counted because the trade-off aspect of the band analysis requires overall responsibility.

The response from tribes has to be taken as illustrative only, because too few replied to be considered as necessarily reflecting the total opinion of all tribes.

One table summarizes responses concerning programs to add to the band. Sixteen programs had been listed, and those are shown in the table. In addition to these, Welfare Grants was suggested by 3 responses, and each of the following received 1 response: Alcoholism programs, IMPL, Tribal trust funds, Student transportation, and Water surveys. It may be noted that some of these are part of programs that are already on the band.

A second table summarizes responses concerning programs to remove from the band. Several respondents wanted airstrips removed because it did not apply to them, but this is not a valid reason for removing a program.

Responses concerning ways to improve tribal input to the budget process covered the waterfront. Frequent suggestions were:

- More time.
- Tribes want more information about non-banded programs and more input to the amount and the distribution.
- Agencies should provide more detail on the categories of expenditure in each program, and the accomplishments resulting.
- Inform tribes of allotments when they come, and expenditures during the year.

Multi-tribal Agencies, and tribes in such Agencies, continued to report problems in reaching agreement on priorities. The solution most frequently proposed is more money.

For programs added to the band, the usual suggestion was that the base should be the same as the previous year, with perhaps some allowance for cost increases.

SUMMARY: REMOVALS FROM 1979 BANDS, BY PE OF RESPONDENT, AS OF 3/1/77

BIA Stat tics
3/1/77

	Tribes				
	Own Agency	Multi-Tribal Agency	Agencies	Area Directors	Total
Total Respondents	11	16	32	6	65
No Removals	8	8	24	5	45
Education & Training-general			1*		1
School Operations			2*		2
Vocational Training- Institutions			2		2
Higher Education institutional assist. (NCC, Lakota Sinte Gliska)		1	2 (1 opposed)	(1 opp.)	3
Special Education Experience			1		1
Youth Work Program (part of Aid to Tribal government)			1		1
Social services		1			1
Road maintenance	1			1	2**
Airstrip maintenance		5	1		6
Trust services - General			1*		1
Environmental quality services			2		2
Real estate services			1*		1
Financial trust services		1	1*		2
Natural resources - general			1*		1
Forestry			1*		1
Mineral and Mining			1*		1
Wildlife and Parks		1			1
Facilities O&M	2		1*	1	4
Executive direction			2*		2
Program development and budget			1		1
Safety management services			4*		4
All other administrative services			2*		2

* 12 programs were checked at one Agency (Northern Pueblos).
** (Navajo tribe and Area)

SUMMARY: ADDITIONS TO 1979 BANDS, BY TYPE OF RESPONDENT, AS OF 3/1/77

BIA Statistics
3/1/77

	No Additions	Scholar ships	JOM base	Prev. private schools	Self determ. grants	Self determ. T&TA	Comp. plann.	Tribal courts base	Deben. base	Law enfor. base	OJT	IAT	Bound. survey	Forestry imp. (add-on)	Irrig. const.	M&AI	Road Const.
1 Tribes with own Agency (incl. Minn. Chipp.)	2	4	2	2	2	2	3	2	2	2	3	4*	2	1	2	2	2
16 Tribes in Multi-tribal Agencies (incl. Cook Inlet & A.F.N.) (omit Red Cliff)	2	4	3	1	7	4	3	1	1	2	5	4	4	0	1	3	7
42 Agencies (some with tribal participation)	5	12	6	3	8	6	7	12	12	13	9	11	6	6	7	5	6
6 Area Office Directors	1	4	3	2	3	3	3	3	3	4	2	3	3	1	1	3	4
Above 65 Replies	10	24	14	8	20	15	16	18	18	21	19	22*	15	8	11	13	19

* (3 opposed)

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:

Management Support
211

MAR 21 1977

Memorandum No. 85-169

To: All Superintendents, Aberdeen Area
Field Representative, Flandreau Field Office

From: Office of the Area Director

Subject: Tentative F.Y. 1978 BIA Funding

Enclosed is Washington Office Memorandum of March 2, 1977 transmitting two tables listing the Banded and Non-Banded funding distributions for F.Y. 1978. These figures are your tentative allocations, based on the President's budget for Fiscal Year 1978, which begins October 1, 1977.

The computer printed table reports the Banded portion of the BIA funding and the figures are based on the agency and tribal priorities which you submitted on your Band Analysis for Fiscal Year 1978.

The other table lists the Non-Banded portion of the funding and refers to funds which have been identified outside of the Band Analysis procedure.

The pay increase columns in the Banded table will be distributed by location when we receive final instructions for completing the F.Y. 1979 Band Analysis.

These are tentative figures for planning purposes only. The actual appropriations will depend on Congressional action and final approval of the Appropriations Act.

We shall continue to keep you informed of the progress of the BIA budget.

Harley D. Zephier
Area Director

Enclosure

CONSERVE AMERICA'S ENERGY

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United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
103

MAR 23 1977

Memorandum No. 85-170

To: All Superintendents, Aberdeen Area
Field Representative, Flandreau Field Offic
All Tribal Chairpersons, Aberdeen Area

From: Office of the Area Director

Subject: F.Y. 1979 Band Analysis

Enclosed is Washington Office Memorandum of March 9, 1977 concerning the F.Y. 1979 Band Analysis.

This serves as a final review and requests comments on the proposed list of programs on the F.Y. 1979 Band Analysis, before March 30, 1977.

We are encouraged by the emphasis on tribal and field participation in the budgetary process. This presents an opportunity for involvement by tribes and agencies in local program decisions and overall Bureau program plans.

I am requesting that this memorandum be given the personal attention of each Superintendent. The trade off aspect of the Band Analysis requires comments by the line official having overall program responsibility.

When submitting comments, please indicate whether it is from a Tribal Official or Agency Superintendent.

Harley D. Zephier
Area Director

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

A.D. Aberdeen

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
720

Memorandum

MAR 8 1977

To: All Area Directors
Central Office Directors

From: Acting Commissioner of Indian Affairs

Subject: FY 1979 Band Analysis

We have reviewed the comments you returned in response to our January 5 inquiry on this subject. A summary of the replies is attached for your information. There were many thoughtful comments, and we thank you for them.

Our proposal for the FY 1979 band is described below. If you have further comments we would like to receive them, especially from tribes that did not reply to our earlier inquiry. Please send them before March 30 to Assistant Director, Financial Management, Bureau of Indian Affairs, Washington, D.C. 20245.

We propose to make the following changes in programs to be included in the 1979 Band Analysis:

1. Self-Determination Grants

Added to the band. Use the 1978 tentative allocations as detailed in the 638 guideline memo, to establish the base for the 1979 band. Program funds have been distributed mainly by a population formula which sets an initial distribution on a systematic basis, but allows no tribal control over program funding decisions. By adding it to the band, self-determination is broadened.

2. Tribal Courts

Continue on the band for increases only. Use the 1978 tentative allocation to establish the base for the 1979 band. The Bureau and the Tribes have now had one year's experience with the new higher funding level. It appears one additional year on the "for increase only" basis is warranted before the program is placed on the band without restriction.

3. Detention/Law Enforcement

Added to the band. Use the 1978 tentative allocations to establish the base for the 1979 band (except Boldt funds; see comments later). This program was on the 1978 band, but for increases only. The Bureau and the Tribes are now in the second year of experience with the higher funding levels. Full inclusion in the band will increase tribal participation.

The original allocations were based on extensive studies of needs, and can be taken as equitable. (Note: 1978 pay cost allocations for law enforcement will be made shortly.)

4. Real Estate Services - Boundary Surveys

Add to the band at the Area Office level. For the Area base, the 1978 allocation will be distributed in proportion to the cost of uncompleted projects.

This is a continuing program at the Area level. Annual funding has been much less than the total uncompleted projects. Banding is kept at the Area Office level because projects will shift location from one year to the next.

5. JOM Add-On

Remove from the band. Inclusion in the band caused problems in 1978 because the base itself was not known in time. Very few locations took advantage of the opportunity offered in 1978.

6. Boldt decision Funds (Portland Area only)

Remove from the band. The program needs are determined by court orders. There have also been Congressional directives on the amounts, which lead to problems when the funds are mixed with other funds for aid to tribal governments, law enforcement, and rights protection.

7. Denver Employment Office

Remove from the band. Office program activities are inconsistent with the perspectives at a single Area.

8. School Operations

Alternative funding approaches to the current banding process determining funding levels for school operations in BIA operated and contract schools are being considered. These considerations include a "foundation funding" concept whereby all band levels would require a minimum funding designation. One possibility is to try this approach in a pilot Area. More information will be provided later.

We are providing these for review and comment. We especially want you to make this available to the tribes for their review and comment. When returning the comments, please indicate whether it is from the Tribe, Agency Superintendent, Area Director, or other.

Enclosure

BIA Statistics
3/1/77

SUMMARY OF RESPONSES TO INQUIRY CONCERNING WHAT PROGRAMS SHOULD BE ON THE 1979 BAND ANALYSIS

The attached tables summarize the main results of the inquiry on this subject. There were 65 returns. They came from the following types of respondents: 11 tribes with their own Agency (Cheyenne River, Turtle Mountain, Southern Ute, Ute Mountain, Zuni, Flathead, Fort Peck, Minnesota Chippewa, Cherokee, Navajo, and Colville); 16 tribes in multi-tribal Agencies (Fort Sill Apache, Iowa, Cook Inlet Region, Alaska Federation of Natives, Grand Camp of Alaska Native Brotherhood, Kawerak, Red Cliff, Stockbridge-Munsee, St. Croix, Bad River, Cortina, Fort Bidwell, Los Coyotes, Santa Ynez, Soboba, and Trinidad); 32 BIA Agencies, many of which conferred with tribes in developing their replies; and 6 Area directors. In 3 other Area Offices replies were received only from program directors, and these were not counted because the trade-off aspect of the band analysis requires overall responsibility.

The response from tribes has to be taken as illustrative only, because too few replied to be considered as necessarily reflecting the total opinion of all tribes.

One table summarizes responses concerning programs to add to the band. Sixteen programs had been listed, and these are shown in the table. In addition to these, Welfare Grants was suggested by 3 responses, and each of the following received 1 response: Alcoholism programs, IMPL, Tribal trust funds, Student transportation, and Water surveys. It may be noted that some of these are part of programs that are already on the band.

A second table summarizes responses concerning programs to remove from the band. Several respondents wanted airstrips removed because it did not apply to them, but this is not a valid reason for removing a program.

Responses concerning ways to improve tribal input to the budget process covered the waterfront. Frequent suggestions were:

- More time.
- Tribes want more information about non-banded programs and more input to the amount and the distribution.
- Agencies should provide more detail on the categories of expenditure in each program, and the accomplishments resulting.
- Inform tribes of allotments when they come, and expenditures during the year.

Multi-tribal Agencies, and tribes in such Agencies, continued to report problems in reaching agreement on priorities. The solution most frequently proposed is more money.

For programs added to the band, the usual suggestion was that the base should be the same as the previous year, with perhaps some allowance for cost increases.

NUMBERED LIST OF PROGRAMS ON THE 1979 BAND ANALYSIS AT AGENCIES & AREA OFFICES

1. Education & training - general
2. School operations
   Direct instruction
4. Informal learning
5. Residential center training
6. Vocational training - institutions *
7. Higher education-individual scholarships
8. Higher education institutional assistance (Navajo Community College,
8 Lakota, Sinte Gleska)
9. All other career development
10. Special education experiences
11. Community services-general
12. Tribal courts
13. Agricultural extension
14. Other aid to tribal government (excludes comprehensive planning) **
15. Social service (excludes Welfare grants)
16. Tribal Courts
17. Detention
18. Law enforcement **
19. Housing
20. Training & technical assistance (Area office only)
21. Self-determination grants
22. Commercial development-general
23. Commercial enterprise development
24. Credit and financing operations (excludes the loan, insurance, and subsidy funds)
25. Direct employment assistance (excludes OJT) *
   Indian Action Teams
27. Road maintenance
28. Airstrip maintenance
29. Trust services-general
30. Environmental quality services
31. Other rights protection **
32. Real estate services-boundary surveys (Area Office only)
33. Other real estate services
34. Financial trust services
35. Natural resources-general
36. Agriculture
37. Forestry (omits Congressional add-on)
38. Minerals and Mining (excludes mineral inventories)
39. Water resources
40. Wildlife and Parks
41. Facilities-general
42. Facilities, operation and maintenance
43. Executive direction
44. Program development and budget
45. Safety management services
46. All other administrative services

* In Albuquerque, excludes Denver Employment Office.
* In Portland, excludes Boldt decision funds.

SUMMARY: REMOVALS FROM 1979 BANDS, BY TYPE OF RESPONDENT, AS OF 3/1/77

	Tribes				
	Own Agency	Multi-Tribal Agency	Agencies	Area Directors	Total
Total Respondents	11	16	32	6	65
No Removals	8	8	24	5	45
Education & Training-general			1*		1
School Operations			2*		2
Vocational Training- Institutions			2		2
Higher Education institutional assist. (NCC, Lakota Sinte Gliska)		1	2 (1 opposed)	(1 opp.)	3
Special Education Experience			1		1
Youth Work Program (part of Aid to Tribal government)			1		1
Social services		1			1
Road maintenance	1			1	2**
Airstrip maintenance		5	1		6
Trust services - General			1*		1
Environmental quality services			2		2
Real estate services			1*		1
Financial trust services		1	1*		2
Natural resources - general			1*		1
Forestry			1*		1
Mineral and Mining			1*		1
Wildlife and Parks		1			1
Facilities O&M	2		1*	1	4
Executive direction			2*		2
Program development and budget			1		1
Safety management services			4*		4
All other administrative services			2*		2

* 12 programs were checked at one Agency (Northern Pueblos).

** (Navajo tribe and Area)

SUMMARY: ADDITIONS TO 1979 BASES, BY TYPE OF RESPONDENT, AS OF 3/1/77

BIA Statistics
3/1/77

	No Additions	Scholarships	JOM base	Prev. private schools	Self determ. grants	Self determ. T&CA	Comp. plann.	Tribal courts base	Deten. base	Law enfor. base	OJT	IAC	Bound. survey	Forestry [illegible]	Irrig. const.	[illegible]	Road Const.
11 Tribes with own Agency (incl. Minn. Chipp.)	2	4	2	2	2	2	3	2	2	2	3	4*	2	1	2	2	2
16 Tribes in Multi-tribal Agencies (incl. Cook Inlet & A.F.N.) (omit Red Cliff)	2	4	3	1	7	4	3	1	1	2	5	4	4	0	1	3	7
32 Agencies (some with tribal participation)	5	12	6	3	8	6	7	12	12	13	9	11	6	6	7	5	6
6 Area Office Directors	1	4	3	2	3	3	3	3	3	4	2	3	3	1	1	3	4
Above 65 Replies	10	24	14	8	20	15	16	18	18	21	19	22*	15	8	11	13	19

* (3 opposed)

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
103

MAY 27 1977

Memorandum No. 85-173

To: All Superintendents, Aberdeen Area
Office Directors and Activity Heads, Aberdeen Area Office

From: Office of the Area Director

Subject: Fiscal Year 1979 Band Analysis Instructions

Atached is a copy of Washington Office memorandum of May 20, 1977 concerning the FY 1979 Band Analysis Instructions. This memorandum outlines Bureau policy and provides detailed instructions on program planning for FY 1979.

Please note that one of the major goals for FY 1979 is to structure the BIA budget to the maximum extent on a tribe-by-tribe, rather than a program-by-program, basis. Also, the constrained levels of funding are higher for agencies than for area offices. The purpose is to favor programs that are under direct control of the tribes and that directly serve the reservations.

The key to reflecting local tribal priorities is to have local involvement in setting of priorities. We must continue to work closely with tribal leaders and be sure that we stress how important the band analysis is in the priority setting process and that tribal leadership can change Bureau program activities to meet their local needs and desires.

It is critical that your Band Analysis be completed and returned to the area office no later than June 20, 1977. This deadline must be met in order for the Planning, Programming and Evaluation (PPE) process to be effective.

If you have questions, please feel free to contact Management Support for assistance.

Harley D. Zephier
Area Director

CONSERVE AMERICA'S ENERGY

Attachment

cc: All Tribal Chairpersons, Aberdeen Area

Save Energy and You Serve America!

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6
UNITED STATES GOVERNMENT

Memorandum

O : All Area Directors
Central Office Program Directors

DATE: MAY 27 1977

Acting
ROM : Assistant Director, Financial Management

JBJECT: FY 1979 Band Instructions - part 2

This supplements the original band instructions transmitted under date of May 20. It deals with questions raised at the meeting with Area Program Officers in Denver on May 23-24.

The Central Office will develop the budget and justifications for (a) the Incentive Grants part of the Self-Determination Grants, and (b) Cadastral Surveys.

Note that boundary surveys other than cadastral surveys are included in the band base and in the 1979 banded levels. This is not clear from the title for line 28 on the band form, which reads "Real Estate Services (excluding 4211 Boundary Surveys)". Line 28 excludes only the cadastral surveys.

The Areas will develop the budget and justifications for Training and Technical Assistance, the same as other non-band programs.

The Fort Hall previously private school is covered in the 1978 band base as shown in the tables. The name of the Forth Hall previously private school should be added to the list of such schools given on page A-2 of the Area Office Instructions (item 2 under the heading "Split Programs").

The following are additions and revisions of the list "Adjustments to 1978 Banded Amounts, for Use as Base in 1979 Band Analysis" :

ABERDEEN AREA

Turtle Mountain
Line 06. Higher Education Institutional Assistance.
Add 42.0 for Turtle Mountain Community College. This will reduce the non-banded amount for College Student Assistance by an equal amount. -42.0

ALBUQUERQUE AREA

The amounts for IAIA, SIPI, AIS, and Area Office have been rebanded at the same levels as before, but using 4 separate bands instead of a consolidated Area Office band. The 4 bands were supplied by the Area Office. The revised adjustments are as follows:

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Line 02. School Operations - Off Reservation Boarding.
Deduction for transfer of IAIA (1,617.0) and SIPI (2,686.6)
to the Central Office -4,303.6
(This leaves 492.6 for Area Office and 1,600.0 for AIS)

Line 37. Facilities Operations - Off Reservation Boarding.
Deduction for transfer if IAIA (500.0) and SIPI (845.0)
to the Central Office -1,345.0
(This leaves 440.0 for AIS. All 3 schools are at the
Need level)

Line 38. Facilities Operations - All Other.
Deduction for Area Office beccuse location is not eligible
for a share of the $4,000,000 add-on for school facilities -98.8
(This leaves 441.2 for Area Office).

PHOENIX AREA

Line 31. Agriculture.
Deduction for removal from band of Pyramid Lake fish
hatchery operation and maintenance (to be carried in the
Central Office budget) -450.0

PORTLAND AREA

(Revision of Western Washington line 13)

Line 13. All other Aid to Tribal Government.
Figure shown in band table for 1978 is 233.4, which omits
245.0 Boldt funds. Enter 1978 base of 478.4 in column 1
of the band form, and deduct 245.0 in column 2 for Boldt
funds, leaving a 1978 base of 233.4 (plus any paycost
allocated) for planning 1979 -245.0

NOTE: The total Boldt money removed from the 1978 band base is 2,254.8 as shown in the adjustments. This plus 1,867.2 Boldt funds not in the band gives a total Boldt budget of 4,122.0.

Glen D McLaren

UNITED STATES GOVERNMENT

Memorandum

TO : All Area Directors

DATE: MAY 20 1977

FROM : Acting Deputy Commissioner of Indian Affairs

SUBJECT: FY 1979 Band Instructions (Bands Due in Central Office July 1, 1977)

The Band Analysis has been successfully incorporated into our budgeting process as a tool for reflecting Indian priorities concerning the majority of local programs. It will help us in one of our major goals--to structure the BIA budget to the maximum extent on a tribe-by-tribe, rather than a program-by- program, basis. You will recall our discussion of this at our recent Area Directors meeting on budget procedures.

We expect that the new zero-base budget process will permit us to keep the banded priorities intact, even though the funding available for bands may subsequently change from the target planning level. Attached are instructions for developing the 1979 Band Analysis.

You will notice that the constrained levels are higher for Agencies than for Area Offices. The purpose is to favor programs that are under direct control of the tribes and that directly serve the reservations.

In keeping with the philosophy that whenever it is reasonable, programs will be put on the band, and in response to our earlier request for proposed changes to the FY 1979 Band, we have also added Tribal Courts, Law Enforcement, and Self-Determination grants to the band analysis, so that the tribes will have input to the funding of these programs.

Off-reservation boarding schools are now shown on separate lines on the band analysis form. Area Directors should make sure that funding is in line with enrollment trends and justifiable unit costs.

For proper planning of 1979, we need to make certain adjustments in the 1978 base because of changes in responsibility, for example, transferring three colleges from Areas to Central Office, transferring schools from the BIA system to public school systems, adjusting for new facilities not covered in the 1978 bands, etc. Each such adjustment is explained in the instructions.

Raymond V. Butler

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Over the years the BIA has been involving tribal leadership in setting priorities through the band process. In spite of this, the Bureau was criticized in both the House and Senate appropriation hearings for lack of direct Indian involvement in setting priorities. I am determined that each Area Director and Agency Superintendent work closely with Indian leaders to be sure they understand the budgeting process and that they can change Bureau program activities to meet their needs and desires. We must provide whatever information they need so they are fully aware of what they can do.

Attachments:

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
103

JUN 8 1977

Memorandum No. 85-175

To: All Superintendents, Aberdeen Area
Field Representative, Flandreau Field Office
Office Directors and Activity Heads, Aberdeen
Area Office

From: Office of the Area Director

Subject: Preparation of the Fiscal Year 1978 and 1979 Program Plans (PPE).

Transmitted with this memorandum are the following materials you will need to complete the FY 1978 and 1979 Program Plans. Off-Reservation boarding school packets contain only those materials that apply to them and which they will need in preparing the PPE submission.

The materials you are receiving with this transmittal include:

1. Memorandum from Acting Chief, Division of Accounting Management of May 13, 1977 (including instructions and guidelines).
2. An envelope with sets of Xerox copies of Funding and Staffing and Accomplishments/Measurement forms.

The tentative FY 1978 and target FY 1979 funding figures to be listed on the funding and staffing forms were based on priorities as established by the band analysis forms previously completed by the agencies. Agencies and schools are to complete the funding and staffing and accomplishments/measurement forms according to the instructions.

When you have completed filling out these forms, retain one copy and send one copy back to the Area Office by July 5, 1977 for the

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attention of Management Support, along with all other materials as required in the agency packaging requirements (see page I-13 of Section I).

We wish to stress that the FY 1978 tentative allocations furnished are based on the President's budget and are for planning purposes only. The actual appropriations will depend on Congressional action and final approval of the Appropriations Act.

If you have any questions, please contact Management Support.

Harley D. Zephier
Area Director

Enclosures

Management Support
103

JUN 20 1977

Memorandum

To: Commissioner of Indian Affairs
Attention: Assistant Director, Financial Management.

From: Office of the Area Director

Subject: Band Data Forms for FY 1979

Attached are the Band Data Forms package for FY 1979 for Rosebud Agency which is the official band for Rosebud Agency.

It contains the Superintendent's signature only and not the tribal chariman's because the Rosebud Sioux Tribe felt that if they agreed to the Band amount for FY 1979, they would in affect be agreeing to inadequate funding.

The tribal council's reasons are contained in the attached Superintendents transmittal letter dated June 9, 1979, the Superintendent's report of Tribal Participation and in the Rosebud Sioux Tribal Resolution, No. 77-47, dated May 11, 1977 as well as in the Superintendent Keller's memorandum of June 7, 1977.

Also enclosed is additional information on tribal participation in the Band Analysis process in the form of trip reports from the Staff in Management Support from the Aberdeen Area Office. Also indiuded is a memorandum from the Office of the Area Director on the meeting with Representatives of the Rosebud Sioux Tribe to Secure Input to the Band Analysis. This memorandum also indicates the position of the Area Director in regard to the response of the Rosebud Sioux Tribe to the Band Analysis for FY 1979.

Also enclosed is a decision package format indicating what could be done with increased funding for three programs.

(Sgd) Harley D. Zeigler
Area Director

JSKYE:jmb
MGMT. SUPPORT

CC: AAO Tribal Government

BUREAU OF INDIAN AFFAIRS
BAND ANALYSIS (LOCAL FUNDING PRIORITIES) FISCAL YEAR 1979
(Dollars in thousands and tenths)

Location Name
Rosebud Agency

Location Code
A07-01

Program	Line Code	1978 BASE			1979 Constrained			1979 Unconstrained 2/	1979 Need 3/
		1978 Land Plus New Programs	Paycost & Tranfers	Total Base	LOWER 1/	TARGET 1/	HIGHER 1/		
Education and Training-General	01-1000	25.0	1.5	26.5	✓ 30.0	40.0	✓ 40.0	40.0	40.0
School Operations-Off res. boarding	02-1100								
School Operations-All other	03-1100	533.0	22.0	555.0	✓ 570.0	615.0	✓ 675.0	615.0	690.0
Direct Instruction	04-1361								
Informal Learning	05-1362	34.5	0.0	34.5	✓ 34.5	36.5	✓ 40.0	36.5	40.0
Higher Education Institutional Assistance	06-1398	293.5	0.0	293.5	✓ 300.0	340.0	✓ 400.0	340.0	1.200.0
All Other Continuing Education	07-1399								
Special Education Experiences	08-1400								
Previously Private Schools	09-1700	255.0	534.5	789.5	✓ 794.0	834.5	✓ 865.0	834.5	880.0
Community Services-General	10-2000								
Tribal Courts	11-2165	0.0	65.0	65.0	✓ 67.0	75.0	85.0	75.0	90.0
Agricultural Extension Service	12-2168	45.6	0.0	45.6	✓ 46.0	50.0	✓ 55.0	50.0	55.0
All other Aid to Tribal Gov't. (Excludes 2121 Comprehensive Planning)	13-2199	16.9	0.0	16.9	✓ 16.9	20.0	✓ 25.0	20.0	25.0
Social Services (Excludes 2261-2265, grants)	14-2200	139.0	6.5	145.5	✓ 160.5	185.5	✓ 200.5	185.5	200.5
Law Enforcement	15-2300	0.0	421.4	421.4	✓ 440.0	463.0	✓ 485.0	463.0	490.0
Housing	16-2400	94.7	0.0	94.7	✓ 115.0	124.3	✓ 187.5	150.0	400.0

Location Name

Rosebud Agency

Location Code

A07-01

	Line Code	1979 BASE			1979 Constrained			1979 Unconstrained 2/	1979 Need 3/
		1978 Base Plus New Programs	Paycost & Transfers	Total Base	LOWER 1/	TARGET 1/	HIGHER 1/		
Self-Determination Grants 4/ (Excludes incentive amounts)	17-2661	0.0	269.1	269.1	259.1	279.1	285.0	279.1	285.0
Commercial Development-General	18-3100								
Commercial Enterprise Development (Excludes 3132 (RCP)	15-3100								
Credit and Financing (Excludes 3262, 3263, 3264, 3265)	20-3200	60.8	3.0	63.8	70.0	80.0	85.0	80.0	91.6
Residential Center Training	21-3364								
Vocational Training-Institutions	22-3365	238.9	0.0	238.9	245.0	260.0	275.0	260.0	400.0
Other Employment Assistance (Excludes 3362, OJT and 3363, AVT)	23-3399	125.4	2.0	127.4	130.0	145.0	155.0	145.0	200.0
Road Maintenance (includes Airstrips)	24-3500	147.7	8.0	155.7	195.4	230.8	275.0	255.0	355.0
Trust Services-General	25-4000								
Environmental Quality Services	26-4122								
All Other Rights Protection	27-4199	25.0	0.0	25.0	20.0	35.0	40.0	35.0	40.0
Real Estate Services (Excludes 4211 Boundary Surveys)	28-4200	123.0	4.5	127.5	155.0	175.0	190.0	185.0	197.3
Financial Trust Services	29-4300	43.2	2.0	45.2	47.5	47.5	49.0	47.5	49.0
Natural Resources-General	30-5000								
Agriculture	31-5100	313.9	12.5	326.4	335.0	350.0	380.0	350.0	402.0
Forestry (Excludes Congressional add-on)	32-5200	2.2	0.0	2.2	2.0	2.2	2.5	2.2	3.0
Minerals & Mining	33-5300								
Water Resources	34-5400	28.4	0.0	28.4	25.0	35.0	40.0	35.0	40.0

Location Name

Rosebud Agency

Location Code

A07-01

	Line Code	1978 BASE			1979 Constrained			1979 Unconstrained 2/	1979 Need 3/
		1978 Enacted Plus New Programs	Paycost & Transfers	Total Base	LOWER 1/	TARGET 1/	HIGHER 1/		
Wildlife and Parks	35-5700				5.0	10.0 ✓	20.0	10.0	20.0
Facilities-General	36-6000								
Facilities Ops.-Off. res. boarding	37-6400								
Facilities Ops.-All other	38-6400	234.3	7.1	241.4 ✓	225.4	265.4 ✓	280.0	265.4	280.0
Facilities R & M-Off res boarding	39-6400								
Facilities R & M-All other	40-6300	265.7	14.9	280.6	268.6	308.6	315.0	308.6	315.0
Executive Direction	41-7200	49.3	2.5	51.8 ✓	52.0	53.8 ✓	60.0	53.8	60.0
Program Development and Budget	42-7201	29.9	1.5	31.4 ✓	21.0	25.0 ✓	28.0	25.0	28.0
Safety Management Services	43-7271								
All Other Administrative Services	44-7299	57.6	2.5	60.1 ✓	62.0	70.0 ✓	75.0	70.0	80.2
TOTAL, ABOVE	45-0000	3182.5	1380.5	4563.0	4699.9	5156.2	5612.5	5216.1	6956.6

1/ Line 45 for Lower, Target, and Higher Constrained levels are: For Agencies - 103%, 113%, 123% of 1978 Total Base. For Area Offices - 95%, 105%, 115%. For the Navajo Area - 101%, 111%, 121%.

2/ "Unconstrained" means modest increases over the Target level for those few activities or programs which could achieve relatively high and rapid payoffs at the margin. It could total less than the "Higher" level.

3/ "Need" means a feasible amount that could be effectively spent during 1979.

Signature of Agency Superintendent or Area Director

[illegible], Supt

Date

6-15-77

Signature of Tribal Chairman or Appropriate Tribal Official(s) (add sheets if necessary)

Date

NARRATIVE - 1979 - PPE

ROSEBUD AGENCY

A committee consisting of representatives of the Rosebud Sioux Tribe and the Bureau of Indian Affairs was appointed to make recommendations for the funding of the various Rosebud Reservation Programs for the FY 1979 planning period. The proposed 1979 Band Analysis was presented at the Rosebud Sioux Tribal Council Session on May 11, 1977. The 1979 constrained target level of $3,514,500 was rejected unanimously by the Council. The Council determined that the 1979 need request of $5,344,500 is a necessary prerequisite for the Bureau of Indian Affairs to provide adequate services in the areas of trust responsibility, human services, roads, economic development, education and training, employment, and housing. A copy of Rosebud Sioux Tribal Resolution No. 77-47 is attached. The following is a summary of high priority items that have been of concern to members of the Tribal governing body, and are not necessarily prioritized according to order in which they are listed:

HOUSING:

Housing continues to be a high priority item on the Rosebud Reservation. There are new homes presently under construction. Plans are being developed to contruct new homes for the future. There are homes that have been built under various housing programs and through private enterprise over many years. Additional funds will be necessary to renovate older homes, provide maintenance services, and to administer the housing program overall. Although the Manpower has been available through Department of Labor Programs, funds have not been adequate to purchase the necessary tools, supplies, and materials. Additional funds would alleviate this problem considerably. It is anticipated that additional housing funds would also be utilized to administer winterization programs as related to the current energy conservation problems.

ROADS:

Adequate road maintenance continues to be high on the Rosebud Sioux Tribe's priority list. An increase in funding will be necessary to stop deterioration of existing highways. With the steadily rising costs of supplies and materials, plus the increase in labor costs, little if left for road maintenance after salary costs are paid. The road system expands each year with the addition of new housing and business areas. Unless the necessary funding is available, the present gravel roads will return to dirt, and the paved roads back to gravel.

EDUCATION:

An increase in funding of Educational programs on the Rosebud Reservation is necessary to maintain excellance in Elementary and High School Education, Higher Education Opportunities, and Dormitory living. If more funds are not available in FY 1979, a personnel cut will be manatory, worn out equipment will not be replaced, recreational services will be deminished, and the quality and quantity of food services would be curtailed.

The Sinte Gleska College Center is requesting full funding under the Bureau of Indian Affairs in the amount of $1,000,000. These monies will permit the college to stabilize it's funding and provide for the development and expansion of it's programs. Current funds are utilized from general tribal allocations in conjunction with BIA programmed funds. The college administers the Natural Resources program through a PL 93-638 contract and works in the areas of Water Development, Irrigation, Grassland and Range Management, Outdoor Recreation, Fish and Wildlife, Forestry, and Mineral Manggement.

Sinte Gleska College has also contracted the Adult Education Program, Additional money for this contract has been requested to expand their staff, lease additional office space, and to increase travel.

SOCIAL SERVICES:

The Agency Branch of Social Services has been operating on a crisis basis the last few years due to a shortage of funds and an adequate staff. The caseload per Social Worker at Rosebud Agency is four times the recommended national standard. The current caseload precludes Social Workers from doing any preventive casework, as the majority of their working day is devoted to the payments portion of the program. The current unemployment rate (May, 1977) on the Rosebud Reservation is considered to be in the neighborhood of 68%. The family services that would normally be provided in this situation is now limited to the most severe cases.

LAND RESOURCES:

The continuing lack of adequate funding and staffing in the Branch of Real Property Management creates undue personal and financial hardships on Indian people. The staff is not able to effectively handle all the leases to the advantage of Indian landowners. The volume of work that is required of a staff of three (including on temporary GS-3, and a tribal clerk) does not allow the time necessary to collect all the lease monies and distribute the funds to the individual landowners in a timely manner. This cash flow involves approximately 17,000 separate deposits to Individual Indian or Tribal IIM accounts. This section maintains approximately 1,500 leases that run from one to five years. The workload connected with requests for long term homesite and business leases has become voluminous. It is necessary to increase this staff by the addition of two GS-3 or GS-4 clerks. As the result of a Federal Court Order, the backlog in probate cases has improved, although the updating of census records and correct posting of sale data are so far behind that land records do not always contain the information needed to determine current title, as a result in comes cases, rental incomes are inaccurately disbursed.

The Acquisition and Disposal Section is also woefully understaffed. Exchange and sale applications are years behind, as is the number of right-of-way applications for roads, electric, telephone, and most recently, buried water pipe-liner. A harshly constrained estimate would be an increase of 3 permanent employees for this section.

If no additional money is available for Agirculture, the program will be able to function at the current level with the largest share of the funding obligated to salaries. Special projects such as flood control structures, recreational area development, forestry, water development, and wildlife and parks will suffer.

CREDIT:

The addition of an employee to work with agricultural loan clients is a high priority item in the Branch of Credit. Many new cattle operators are being financed through Tribal and Bureau Programs. This employee would have the responsibility of working with loan clients on a day to day basis from the initial planning through the first year of operation.

The relending program has increased from 83 active loans to 183 in a three year period. Many of these are agricultural, business, and housing loans that require a considerable amount of follow-up involving insurance, mortgages, titles, etc. Currently, technical assistance to borrowers is practically non-existent.

EMPLOYMENT ASSISTANCE:

The amount of money available through the Branch of Employment Assistance determines the number of clients who will be able to avail themselves to Direct Employment and Adult Vocational Training Services. Current level funding dictates that practically all scheduling of trainees into vocational schools be suspended during the 2nd quarter of the fiscal year. The P.L. 638 Contract administered by the Rosebud HOusing Authority has been an effective approach for training individuals in the building trades. It has provided training on the local scene, and has helped in upgrading the quality of the housing on the Reservation. If, additional funds were available, more slots would be available for trainees.

FACILITIES MANAGEMENT:

The requested increase in Plant Management funds result from a substantial salary increase-for Wage - Grade employees and the increased cost of supplies and materials. Salary increases for 14 Wage - Grade employees amounts to $23,000 per year. The increased cost of heating oil during the current year has been an added expense, plus the addition of a new facility. In the event of a cut in facilities management funds, the increased costs of salaries and utilities will deplete the budget to the extent that little money will be available for purchase of supplies and materials needed to carry out the function of the program.

INDIVIDUAL INDIAN MONEY:

The moderate increase requested for IIM is requested to absorb the costs of salary increases and the costs of supplies and upkeep of bookkeeping machines.

ADMINISTRATION:

The Branch of Administration anticipated increase of $20,000 will be utilized primarily for the establishment-of two positions, a GS-4, Receptionist and a GS-7, Administrative Assistant. The increase also includes two within grade-increases, plus one promotion.

SUPERINTENDENT'S REPORT OF TRIBAL PARTICIPATION

1. List of tribes not supporting band analysis by signature or tribal resolution (if none, write none and skip to item 6 below):

   ROSEBUD SIOUX TRIBE

2. List of tribes submitting alternative band analyses:

   Rosebud Sioux Tribe - will submit a "needs" paper, not a Band.

3. Superintendent's comments on main differences in alternative bands, failure to reach agreement:

   Rosebud Sioux Tribe feels that in order for the Rosebud Agency to fulfill its responsibilities a larger amount of funding is needed. The Tribe did not support a constrained level of funding process - Refer to attached Resolution No. 77-47.

4. If alternative band analyses not available for these tribes, explain (see also 5 below):

   Rosebud Sioux Tribe will submit its own needs strategy paper - Not a Band Analysis.

5. If Superintendent submits his own alternative band analysis differing from that of the tribe(s) to the Area Director for decision, describe the essential functions that cannot be carried out under the tribal band. In the case of 2 or 3 tribe Agencies, there may be an unworkable Agency total if the tribes prepare separate bands for parts of the Agency. Attach additional justification if necessary.

   The Rosebud Sioux Tribe thinks that essential functions cannot be carried out operating with the FY 1979 constrained levels offered to the Rosebud Agency.

6. Document meetings scheduled and held to secure input of tribes to the band analysis. Include date and location, tribal representatives invited and attending, reasons for nonparticipation, and additional explanation as needed.

   There has been very active Tribal participation in this year's Band Analysis process. Refer to attached page.

Location ROSEBUD AGENCY Area ABERDEEN

Signature of Superintendent Date 6-15-77

MEETINGS HELD

DATE:	LOCATION:	TRIBAL PARTICIPANTS:
April 19 - 77	Rosebud Agency	Mike LaPointe Richard Lundstrom Various Tribal Directors
May 5 - 77	Rosebud Agency	Mike LaPointe Richard Lundstrom
May 6 - 77	Rosebud Agency	" " " "
May 9 - 77	Rosebud Agency	" "
May 11 - 77	Rosebud Agency	24 Councilman
May 25 - 77	Rosebud Agency	Mike LaPointe Richard Lundstrom
May 26 - 77	Aberdeen Area Office (Meeting with Area Office Staff).	Mike LaPointe Richard Lundstrom
June 3 - 77	Rosebud Agency (Area Office Staff, Rosebud Staff and Tribal Representatives).	Ed Driving Hawk, Chairman Charles Colombe, Councilman Mike LaPointe Richard Lundstrom Tex Waln

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:

JUN 10 1977

Memorandum

To: Acting Deputy Commissioner of Indian Affairs

From: Office of the Area Director

Subject: Meeting with Representatives of the Rosebud Sioux Tribe to Secure Input to the Band Analysis.

On May 26, 1977 Aberdeen Area Office personnel, including myself, met with representatives of the Rosebud Sioux Tribe, and the Rosebud Agency Superintendent and staff, to discuss the band analysis instructions for FY 1979, the planning, programming and evaluation process and other matters of overall planning by the Tribe, Agency, and Area.

The Tribe stated that they were in complete agreement that a joint planning procedure should be employed by the Tribe, the Agency, and the Area Office but that the Rosebud Sioux Tribe could no longer work within the constrained limits of the band analysis. The Rosebud Sioux Tribe felt that almost completely across the board the services the BIA provided to the tribe were at best at a minimal level and that to submit constrained figures would not be in the best interest of the Rosebud Sioux Tribe. Consequently, they by resolution would not endorse any figures submitted by the Agency and Area Office within the constrained amounts of the band analysis.

The Agency Superintendent and his committee have obtained excellent involvement from the tribe in the priority setting process. However, because of the reasons listed above the tribe cannot support the band analysis by signature on the band. We would like to point out that the band will be submitted by the Agency Superintendent as the development of FY 1979 programs must move forward.

I am in full support of the Rosebud Sioux Tribe's effort to

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establish a better joint planning system and to increase BIA services to the level necessary to meet tribal needs as determined by the tribe itself. It will be appreciated if you will take their views into consideration in the preparation of future program planning instructions.

In conclusion, by request, I am giving the Rosebud Sioux Tribe my personal assurance that I will submit to the Central Office any supplemental budgetary material which will be developed jointly by Tribal, Agency and Area Office personnel.

Area Director

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Management Support
150

JUN 14 1977

Memorandum

To: Superintendent, Rosebud Agency
Through: Office of the Area Director

From: Division of Management Support

Subject: Trip Report

Date of Travel: June 3, 1977

Place of Travel: Rosebud, South Dakota

Purpose: To discuss the Rosebud Agency Band Analysis for FY 1979.

Contacts: Superintendent, George Keller and Key Agency Staff,
Mr. Ed Driving Hawk, President Rosebud Sioux Tribe,
Tribal Council members and staff.

Discussion Items: Officials of the Rosebud Sioux Tribe expressed the position that they could no longer work within the constrained limits of the band analysis. They felt that the services provided to the tribe by BIA were at a minimal level and that to sign off on constrained figures would limit their ability to press for more funding to meet tribal needs.

Agency staff pointed out the excellent participation they have received from the tribe. However, because of the reasons listed above the tribal officials do not feel they can sign the FY 1979 band.

Mr. Harley Zephier, Area Director, and staff, explained the band analysis instructions for FY 1979; the efforts of the BIA in the Program Strategy Paper to structure the budget to the maximum extent on a tribe-by-tribe, rather than a program-by-program, basis; and support of tribal priorities and aspirations.

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Recommendations: Continue your good working relationship with the tribal council in jointly developing supplemental budgetary material to be submitted with the agency band analysis.

Follow-Up Action: If you have a need for additional technical assistance, please call Management Support.

Consultants:

Merle Johnson
Merle Johnson
Director, Management Support

Approved:

Area Director

Management Support File
MBO

APR 26 1977

MJohnson
4-26-77
Arnette
4/26

Memorandum

To: Superintendent, Rosebud Agency
Through: Office of the Area Director

From: Division of Management Support

Subject: Trip Report

Date of Travel: April 19 - 20, 1977

Place of Travel: Rosebud, South Dakota

Purpose: To present workshop on Management By Objectives (MBO), Zero Base Budgeting (ZBB), Development of the 1979 Program Plan (PPE), and discuss preparation of the Band Analysis.

Contacts: George Keller, Superintendent, BIA and Tribal Staff. (see attached list).

Discussion Items: Presented a four hour workshop on MBO, ZBB, PPE, and preparation of the Rosebud Agency Band Analysis for Fiscal Year 1979. These items were discussed with the intention of approaching them each as a part of a total management process.

It was emphasized that the band analysis should be used as a management tool to get local tribal input into the budget process.

Mr. John Buehlmann met with the the Health and Welfare Committee, Reuben McCloshy and the Acting Director of the Alcoholism Committee. He also made a needs assessment presentation to those in attendance at the PPE meeting. On April 20th we met with William Mehojah and Mike LaPointe, Tribal Planner to answer more detailed questions on Area and BIA allocations and procedures used to distribute the funds.

The team appreciated the opportunity to present the session. We feel that there is a growing awareness on the part of the tribe of the necessity to participate in the forward planning cycle. They asked many questions and overall seemed to better understand the process.

Recommendations: Continue the working relationship which your staff has developed with the tribal staff in the final preparation of documents necessary for completion of the 1979 forward planning cycle.

Follow-Up Action: If there are any questions or you have a need for technical assistance, please feel free to call Management Support.

Consultants:

Joseph F. Skye, Economist
Donald L. Fredrickson, Manpower Development Specialist
John H. Buchlmann, Human Services Resource Developer

SGD MERLE JOHNSON

Director, Management Support

Approved:

(Sgd) R. D. Drap[illegible]

ACTING Area Director

LOCATION: Rosebud

DATE: 4-19-77

TRIBAL/AGENCY BAND ANALYSIS
WORKSHOP

PLANNING - PROGRAMMING - EVALUATION

FY 1979

	REPRESENTING
James [illegible]	BIA [illegible]
Hugh Pottier	BIA Facilities Mg-
Leland Bordeaux	St Francis Indian School
Frank LaPointe	" " " "
[illegible]	RST [illegible]
Cheryl Compton	RST [illegible]
[illegible]	BIA [illegible]
[illegible]	RST Planning
[illegible]	[illegible]
[illegible]	BIA [illegible]
Bob [illegible]	" "
Mike [illegible]	RST Planning Dept
[illegible]	St Francis [illegible]
Beth Lundstrom	Sinte Gleska College
Gerald D. Staick	B.I.A. [illegible]
Bill MEHOJAH	B.I.A –
Joe [illegible]	E.O.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ROSEBUD AGENCY
ROSEBUD, SOUTH DAKOTA 57570

IN REPLY REFER TO:
Administration

June 9, 1977

MEMORANDUM

TO : Aberdeen Area Director, Aberdeen Area Office
ATTN: Management Support

FROM : Superintendent

SUBJECT: Transmittal of FY 1979 PPE Materials

Enclosed you will find the Rosebud Agencie's Band Analysis establishing local funding priorities for Fiscal Year 1979. Attached to the Band Analysis sheets is a Decision Unit overview package which illustrates the need for a slight increase in funding for the Road Maintenance, Housing, and Real Estate Services activities. The slight increase in funding would result in significant desired levels of effort.

The Fiscal Year 1979 Band Analysis for Rosebud Agency contains only the signature of the Agency Superintendent. On May 11, 1977, the Rosebud Tribal Council reviewed the FY 1979 Band Analysis package, and decided that it could not support a budget and planning process which operates within constrained levels. Please refer to Resolution 77-47 which is attached. It should be noted that the Rosebud Tribal Council's non-support of the Band Analysis procedure resulted from the feeling that insufficient funding is provided to the Rosebud Agency, which results in insufficient services to the Rosebud people.

Since the May 11, 1977 meeting with the Tribal Council, several meetings have been held with Area Office staff, local Bureau staff and tribal reprsentatives, including the tribal chairman, in efforts which resulted in tribal involvement in all aspects of Band Analysis. (Please refer to the attached "Superintendent's Report of Tribal Participation".) Even though the Tribe could not support the constrained Band Analysis process, they will actively support efforts of the Bureau to procure funding which will result in exemplary services to the Rosebud Indian people.

As a result of the meetings with the Tribal Council and tribal representatives the Fiscal Year 1979 Band Analysis reflects the priorities of the Rosebud Sioux Tribe. Namely, Housing, Road Maintenance and Real Estate Services. The Rosebud Agency received excellent Tribal involvement in the Band Analysis process even though Tribal endorsement of the constrained levels could not be received.

The Rosebud Sioux Tribe will submit its Fiscal Year 1979 Needs under a separate cover. Their Needs will reflect what financial support is required in order that the needs of the Rosebud people are met at a satisfactory level.

This year the local Bureau staff received active Tribal involvement in the PPE process. Even though Tribal endorsement would not be received, there was a large amount of positive management information received from the Rosebud Sioux Tribe.

If additional information should be required, please do not hesitate to contact this office.

Superintendent

Enclosures

Decision Unit Overview
Rosebud Agency
Bureau of Indian Affairs
Rosebud, SD

Goal:

To offer adequate services to the Rosebud Sioux Tribal people in the areas of Housing, Road Mainteneance, and Real Estate Services.

Major Objectives:

To acquire adequate funding for the following activities: Housing, Road Maintenance and Real Estate Services at the Rosebud Agency, in order that the needs of the Rosebud Reservation residents are met.

Current Method of Accomplishing Major Objectives:

Funds are received through the Program Planning Evaluation and Band Analysis process to operate the three activities. The funds received from FY 75 - FY 77 have forced the activities to operate at a minimum level.

Alternatives:

1. Remove these activites from the Band and fund at a higher level. They would not then be in competition with other programs which are on the band.

2. Do not remove these activites from the Band but request special appropriationsfor the three activities.

   Theses alternatives have not been pursued heretofore. However Law Enforcement Services did experience a Carge increase in funding when removed from the Band.

Consequences of Not Approving Decision Unit:

To not approve additional funding at the 1979 unconstrained Level would mean continued deterioration of roads; substandard housing not being repaired or improved; leases and probates becoming more and more backlogged.

Benefits of Approving Decision Unit:

A smallincrease in funding would result in the computerization of leases, and record keeping being brought to a current status; houses would receive necessary repairs and improvements; and graveled roads would not become dirt roads - paved roads become

Page 2.

graveled roads instead, it would be possible to maintain the major roadways at a satisfactory level. The road network at present has deteriorated to unacceptable standards.

Quantitative Measures ($ in thousands):

	FY'75	FY'76	FY'77	FY'78 *tentative
Roads	89.6	95.8	97.9	155.7
Housing	81.5	85.9	86.5	94.7
Realty	76.5	81.6	83.5	127.5

* Dependent upon actual Appropriations:

Resources Required FY'79:

Roads	255.0
Housing	150.0
Realty	185.0

Other Information:

Roads, Housing, and Realty are high tribal priorities and have given large increases in the planning stage for Fiscal Year 1979. At the end of Fiscal Years '77 and '78 each program will have been operating at a minimum level due to the lack of operational support funds, and to the lack of people (Positions). If funded at the "Resources Required" Level each activity would be able to fulfill its programs responsibilities.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ROSEBUD AGENCY
ROSEBUD, SOUTH DAKOTA 57570

IN REPLY REFER TO
Administration

Pruitt
6-10-77

June 7, 1977

Memorandum

To: Office of the Area Director, Aberdeen Area
Attn: Tribal Government & Indian Rights

From: Superintendent, Rosebud Agency

Subject : Rosebud Sioux Tribal Resolution 77-47

Transmitted approved please find Rosebud Sioux Tribal Resolution 77-47, which was duly passed by the Rosebud Sioux Tribal Council on May 11, 1977.

Rosebud Sioux Tribal Resolution 77-47 receives total approval and support from the Rosebud Agency.

It has become increasingly apparent that the Rosebud Agency cannot properly fulfill its obligations to the Rosebud Sioux Tribe with its present constrained funds and limited personnel. In order to provide adequate services to the Rosebud Sioux Tribe in the areas of Trust Responsibility, Human Services, Roads, Education, Employment, Housing, Law and Order, Credit, et al. The Rosebud Agency needs not unlimited funds, but an increase in its Fiscal Year 1979 Base of 1.8 million dollars. This will be reflected in our Band which will be submitted prior to July 1st. Without this increase the Rosebud Agency will only be able to provide a minimum level of services. The Rosebud Sioux Tribal people deserve better than a minimum level of services.

The Program, Planning and Evaluation System has been utilized to its fullest potential at this level. As long as we continue to operate at a minimum level, and continue to offer inadequate services the PPE system based upon an inadequate constrained level cannot assist us in achieving our desired objective, which is to provide adequate services to the Rosebud people.

The Rosebud Sioux Tribe and the Rosebud Agency requests that Resolution 77-47 be forwarded to the Central Office in order that they be made aware of our concerns. It cannot be overemphasized that the Rosebud Tribal Council recognizes that the Rosebud Agency cannot fulfill its responsibilities with its limited funding and staff.

Any support your office can provide in procurring the additional 1.8 million dollars for the Rosebud Agency would be deeply appreciated.

Superintendent

RECEIVED
JUN 8 1977
Aberdeen Area Office
TRIBAL GOVERNMENT
AND INDIAN RIG

RESOLUTION 77-47

Whereas the Rosebud Sioux Tribal Council met in regular session on May 11, 1977 at the Rosebud Sioux Tribal Council Hall at Rosebud, South Dakota; and

Whereas at that time extensive discussion took place among the Rosebud Sioux Tribal Council and the Bureau of Indian Affairs, Rosebud Agency, with respect to Rosebud Agency's operation budget for fiscal year 1979; and

Whereas the heads of the various branches of Rosebud Agency presented in depth reports of their activities, personnel, and budgets; and

Whereas it appears from the presentation presented by the Rosebud Agency that the anticipated budget for its operations in fiscal year 1979 will be approximately $3,514,500.00; and

Whereas from the discussion that took place on May 11, 1977 by and between the Rosebud Sioux Tribal Council and Rosebud Agency, and from facts and information secured by the Rosebud Sioux Tribal Council independently, it appears that the Rosebud Agency will need the sum of $5,334,500.00 in order to properly fulfill their trust responsibilites owed to the Rosebud Sioux Tribe and its members; and

Whereas it was the concensus of the Rosebud Sioux Tribal Council that Rosebud Agency has not in the past properly fulfilled its responsibilities and that a substantial reason for such failure is the lack of money; and

Whereas the Rosebud Agency has not in the past received its equitable share of the total monies appropriated by Congress for the Bureau of Indian Affairs; and

Whereas unless Rosebud Agency receives the sum of $5,334,500 it will not be able to properly perform its responsibilities, trust and otherwise, to the Rosebud Sioux Tribe and its members and hence the development of the Rosebud Sioux Tribe will be seriously hampered; and

Whereas under Article IV, Section (a) and (d) of the Rosebud Sioux Tribal Constitution the Rosebud Sioux Tribal Council has the power and authority to negogiate, advise, and consult with the Department of Interior with respect to all activities that affect the Rosebud Sioux Tribe and, further, to advise the Secretary of Interior with regard to all appropriation estimates that may affect the Rosebud Sioux Tribe.

THEREFORE, BE IT RESOLVED, that the Rosebud Sioux Tribal Council demands that the Bureau of Indian Affairs readjust the budget for the Rosebud Agency so that it will have the sum of $5,334,500 with which to carry on its activities and responsibilites for fiscal year 1979. BE IT FURTHER RESOLVED that the Rosebud Sioux Tribal Council demands that Rosebud Agency take any and all measures to secure the above mentioned sum from Aberdeen Area Office and Bureau of Indian Affairs in Washington, D.C. IT IS FURTHER RESOLVED that the Rosebud Sioux Tribal Council is in complete support of the Rosebud Agency in the endeavor to secure the needed monies in the above mentioned amount for its fiscal year 1979 operations.

Ed Driving Hawk
President
Rosebud Sioux Tribe

ATTEST:

John King Jr.

John King
Secretary
Rosebud Sioux Tribe

CERTIFICATION

The above resolution was adopted by the Rosebud Sioux Tribal Council meeting in regular session on the 11th day of May, 1977 at Rosebud, South Dakota. A quorum was presented. The resolution was voted upon and 24 voted in favor of said resolution and none voted against. Resolution carried.

John King Jr.

John King

DATE SUBMITTED 5/23/77
TO ROSEBUD AGENCY SUPT

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Tribal Government
and Ind-an Rights

JUN 15 1977

Memorandum

To: Superintendent, Rosebud Agency

From: Tribal Government and Indian Rights

Subject: Tribal Resolution

We have received tribal resolution No. 77-47 enacted by the Rosebud Sioux Tribal Council.

The resolution has been referred to AAO, Management Support (For referral to Washington Office).

Comments:

(Sgd) Franklin L. [illegible]

Director

cc:
President, Rosebud Sioux Tribal Council
AAO, Management Support
File Copy

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

Management Support
060

JUN 28 1976

MJohnson
6-24-76

[illegible]
6-2[illegible]

Memorandum

To: Commissioner of Indian Affairs
Attention: Assistant Director, Financial Management

From: Office of the Area Director

Subject: Resolution No. 76-53 of the Winnebago Tribe of Nebraska

Enclosed is a copy of Resolution No. 76-53 of the Winnebago Tribe of Nebraska. Also enclosed is a copy of a memorandum from the Superintendent, Winnebago Agency.

We support the position of the Winnebago Tribe of Nebraska that excluding the Higher Education Scholarship program from the Band Analysis creates an incomplete budget planning package for the Winnebago Agency.

The exclusion of program funds from the Band Analysis process and increased centralized control of the funds at the Washington level will continue to have an adverse effect upon the creditability of the Commissioner's policy of involving the Tribe's in setting priorities as they see them.

(Sgd) Harley D. Zeph
Area Director

Enclosures

cc: Superintendent, Winnebago Agency

MJohnson:wlf 6/24/76
MGMT. SUPPORT

RESOLUTION
of the
WINNEBAGO TRIBE OF NEBRASKA

Resolution #76 53

WHEREAS, the Winnebago Tribe of Nebraska is a Federal Corporation organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat 984) (25 USC 476) as amended by the Act of June 15, 1935 (49 Stat 378), and

WHEREAS, the Commissioner of Indian Affairs has implied in his policy statement that the Bureau of Indian Affairs will be responsive to the needs of Indian people and that the Bureau of Indian Affairs will consult with tribal governments and receive their input in the decision making process, and

WHEREAS, Public Law 93 638 states that the role of tribal and Alaskan Native governments will be the key decision makers in the self determination process, and

WHEREAS, the Indian tribes are required to utilize the Band Analysis System, and

WHEREAS, under the constraint funding, the Band Analysis stipulates that the tribes set their local priorities according to the amount of monies available, and

WHEREAS, in preparing our FY 78 Band analysis, we notice that the Bureau of Indian Affairs has eliminated the Higher Education Scholarship program from the FY 78 Band and there are not any Higher Education Scholarship figures in the 77 base, and

WHEREAS, the Winnebago Tribe of Nebraska was never consulted about this type of action and we understand that no other tribes have been consulted either, and

WHEREAS, the Winnebago Tribe of Nebraska has consistently placed the Higher Education Scholarship as a high priority, and

WHEREAS, by placing it as a very high priority, the Tribe has to take funds away from other programs, and

WHEREAS, the elimination of the Higher Education Scholarship program from the Band Analysis System will reduce the Tribe's total allocation for FY 77 and also in the future, and

Resolution cont.

WHEREAS, this action by the Bureau of Indian Affairs creates an incomplete budget planning package for the Tribe which is not the intent of the Program Planning and Evaluation System, and

WHEREAS, section 272.27 of P.L. 93 638 states that "Any Bureau program, excluding any trust resources program, which is planned, replanned, designed or redesigned by a tribe under a grant provided under this part, or from any other resource, shall be implemented by the Bureau if requested by the Tribe through resolution."

NOW, THEREFORE BE IT RESOLVED, that the Bureau of Indian Affairs reinstate the Higher Education Program back into the Band immediately and that the FY 77 Band be changed to reflect these figures, and

BE IT FURTHER RESOLVED, that since our resolution in reference to the Johnson O'Malley operational support waiver has not yet been answered and it was forwarded to the Aberdeen Area Office in March of 1976, that this resolution be acted upon by the Commissioner of Indian Affairs in 30 days.

CERTIFICATION

We, the undersigned officers of the Winnebago Tribal Council, certify that on the 9th day of June, 1976, at a Special Meeting the Winnebago Tribal Council voted to adopt the above resolution by a vote of 6 for and 0 against, with 0 abstentions.

DATED THIS 8th DAY OF JUNE, 1976.

CHAIRMAN, Winnebago Tribal Council

ATTEST:

SECRETARY, Winnebago Tribal Council

SUPERINTENDENT, Winnebago Agency

17 JUN '76 RECEIVED Winnebago Agency

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WINNEBAGO AGENCY
WINNEBAGO, NEBRASKA 68071

6-17-76

HWB
6-17-76

IN REPLY REFER TO:
Administration

June 14, 1976

Memorandum

To : Area Director, Aberdeen Area

From : Superintendent, Winnebago Agency

Subject: Winnebago Resolution 76-53

Attached for your action is Winnebago Tribal Resolution No. 76-53 which objects to the Bureau of Indian Affairs eliminating the Higher Education Scholarship program from the Agency Band Analysis.

I am in complete concurrance with this resolution and recommend appropriate action be taken to comply with the Tribe's resolution.

The Winnebago Agency has been working with the three tribes in Nebraska to establish a positive attitude in relation to the Band Analysis System. The action cited in the resolution has eliminated most of that credibility the tribes ever had for the system and I am in agreement with their position.

The Tribe's position in the past has been that there never has been enough money in the total allocation and that they have had to rob from one program to build another. They have always placed higher education as a high priority and robbed from other programs. With the elimination of higher education from the Band, the program is gone and so is the money from the other programs used to build it up. The elimination of higher education from the Band creates a decrease in the total amount of monies for other programs in FY 78. The monies originally programed for higher education and the percentage of that amount will not be available for programming should the priorities of the Tribe change.

One comment from a tribal council member was that, "The Bureau preaches about tribal input, self-determination, and set your priorities; we have set those priorities and now the Bureau is up to their old stunts by someone on high making a decision without our input that is going to create a detriment to our Tribe."

In my estimation, the decision to eliminate higher education from the Band has erased most of the Tribe's confidence in the Bureau of Indian Affairs that I and my staff have been working to establish.

I would appreciate your assistance in having the attached resolution addressed to as soon as possible.

If my office can provide further information, please contact me.

Superintendent

Attachment

cc: Louis LaRose, Chairman, Winnebago Tribe

Education SEP 02 1976

Memorandum

To: Commissioner of Indian Affairs
Attention: Director of Indian Education Programs

From: Office of the Area Director

Subject: Tribal Resolution Information

Attached is a Tribal Resolution concerning reinstatement of Higher Education Program funds back into the Band Analysis System. May we please have your comments concerning this matter.

9-1-76

9/1/76

9/1

(Sgd) Harley D. Zephier
Area Director

Attachment

cc: Area Director
Tribal Government and Indian Rights

Subject
Chrony
Education:EStark:jhd:9-1-76

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Tribal Government
and Indian Rights

AUG 25 1976

Memorandum

To: Superintendent, Cheyenne River Agency

From: Tribal Government and Indian Rights

Subject: Tribal Resolution

We have received tribal resolution No. 130-76-CR enacted by the Cheyenne River Sioux Tribal Council.

The resolution has been referred to Educational Services (for response).

Comments:

(Sgd) Paul W. [illegible]

Acting Director

cc:
Chairman, Cheyenne River Sioux Tribal Council
Educational Services
File copy

AUG 25 1976
DIVISION OF EDUCATION

CONSERVE AMERICA'S ENERGY

Save Energy and You Serve America!

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
CHEYENNE RIVER AGENCY
EAGLE BUTTE, SOUTH DAKOTA 57625

IN REPLY REFER TO:
Administration

August 19, 1976

Memorandum

To : Area Director
Aberdeen Area Office

From : Acting Superintendent, Cheyenne River

Subject: Resolution Nos. 105-76-CR, 109-76-CR, 119-76-CR, 120-76-CR.

Enclosed are the subject resolutions for your consideration. Resolution 109-76-CR requires Area Office reply.

We recommend approval of Resolution 105-76-CR, Purchase of Lot 10 in Dupree for Cheyenne River Sioux Tribe Telephone Authority.

Sam Miller

RESOLUTION NO. 120 - 76-CR

WHEREAS, the Cheyenne River Sioux Tribe of South Dakota is an unincorporated Tribe of Indians, having accepted the provisions of the Act of June 18, 1934 (48 Stat. 984), and

WHEREAS, the Tribe, in order to establish its Tribal Organization, to conserve its Tribal property; to develop its common resources, and to promote the general welfare of its people, has ordained and established a Constitution and By-laws, and

WHEREAS, the Cheyenne River Sioux Tribe was told that the Higher Education Scholarship Program was removed from the Band Analysis for 1978, and no explanation was given for its removal, and

WHEREAS, the removal of this line item from the Band Analysis severely limits the Tribe's ability in setting priorities in this area, thus, hindering our ability to plan for the highest quality education as charged us by our Constitution, and

WHEREAS, the Bureau of Indian Affairs removed this line item from the Band without first consulting with the Tribes or exploring the ramifications of such action, and the Cheyenne River Sioux Tribe feels that this action will result in a future hardship for our college students, and deny the Tribe the right to set tribal priorities, now

THEREFORE BE IT RESOLVED, that the Bureau of Indian Affairs reinstate the Higher Education Program into the Band Analysis immediately, and that the Cheyenne River Sioux Tribe be allowed to modify its Band Analysis for 1978 to include this line item, and

BE IT FURTHER RESOLVED, that any future changes in the Band Analysis be first brought before the Tribal Council prior to the change so as the Tribe can adequately study the proposed changes.

CERTIFICATION

I, the undersigned, as Secretary of the Cheyenne River Sioux Tribal Council, certify that the Tribal Council is composed of fifteen members, of whom 12, constituting a quorum, were present at a meeting, duly and regularly called, noticed, and convened and held this 6th day of August, 1976, and that the foregoing Resolution was adopted at such meeting by an affirmative vote of 11 for, 0 against, 3 absent, and 1 not voting.

RECEIVED
AUG 10 1976
Cheyenne River Agency

Hazel Garreaux

Hazel Garreaux, Secretary
Cheyenne River Sioux Tribal Council

E.S.
11-12

11-12

Education NOV 12 1976

Memorandum

To: Commissioner of Indian Affairs
Attention: Director of Indian Education Programs

From: Office of the Area Director

Subject: Tribal Resolution Information

The Standing Rock Sioux Tribal Council submitted the attached Tribal Resolution to this office for action. We have also attached a copy of our response to the Agency. May we please have your comments concerning this Tribal Resolution.

(Sgd) Harley D. Zephier
Area Director

Attachment

cc: Area Director
Tribal Government and Indian Rights

Subject
Chrony
Education:EStark:jhd:11-12-76

Education

NOV 11 1976

Memorandum

To: Superintendent, Standing Rock Agency

From: Office of the Area Director

Subject: Tribal Resolution

11-9-76

11-10-76

This is to acknowledge receipt of Tribal Resolution No. 519-76 submitted by the Standing Rock Sioux Tribal Council pertaining to the BIA Higher Education Program remaining on the Band Analysis, assurance of the Agency receiving their full share of the FY 78 Higher Education allocation and the level of funding for the Area Office.

Our office will transmit a copy of this resolution to the Commissioner of Indian Affairs to the attention of Dr. William Demmert. Enclosed is a copy of a memorandum from Dr. Demmert on this subject that was transmitted to each Agency by cover memorandum dated October 19, 1976. Our office does support the concept of Higher Education remaining on the band analysis.

At the present time our office does not have information in regards to the status of FY 78 Higher Education funds. As soon as information is received concerning this it will be transmitted to each Agency.

The Area Office does not have Higher Education Program funds available other than the grant funds for those Agencies that have their grant program administered at this level. These funds have been programmed through each Agency's band analysis just as those Agencies that are administering their own Higher Education Program. The Area Office does not take any administrative cost out of any of the Agency accounts.

(Sgd) Harley D. Zephier
Area Director

cc: Tribal Government
Education;HEBull:paa:11/9/76

EJStark
Subject/Chrono

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Tribal Government
and Indian Rights

NOV 2 1975

Memorandum

To: Superintendent, Standing Rock Agency

From: Tribal Government and Indian Rights

Subject: Tribal Resolution

We have received tribal resolution No. 512-75 enacted by the Standing Rock Sioux Tribal Council.

The resolution has been referred to Educational Assistance (for further response).

Comments:

(S[illegible])

Director

cc:
Chairman, Standing Rock Sioux Tribal Council
AAO, Educational Assistance
File Copy

RECEIVED
NOV 3 1975
DIVISION OF EDUCATION

CONSERVE
AMERICA'S
ENERGY

Save Energy and You Serve America!

IN REPLY REFER TO:
Administration

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
STANDING ROCK AGENCY
FORT YATES, NORTH DAKOTA 58538

October 12, 1976

MEMORANDUM

To: Area Director, Aberdeen Area Office

From: Superintendent, Standing Rock Agency

Subject: Tribal Council Resolution No. 519-76

Transmitted herewith is Tribal Council Resolution No. 519-76, which resolves that the Tribal Council request that the Bureau of Indian Affairs reinstate the Higher Education into the Band Analysis for fiscal year 1978, and that local control of student funding remain at Agency level until such time as the Tribe determines otherwise. Also, the Tribal Council requests assurance that they will receive their full allocation for fiscal year 1978, and for future years. Further, that the Area Director reconsider the level of funding for the Area Office in view of the need being expressed by respective agencies for increase and funding.

This program at Agency level has been administered to provide maximum benefits to as many enrolled members as possible.

This Resolution was received in this office on October 4, 1976.

Shirley Plume
Superintendent

Pat McLaughlin
Chairman

(701) 854-2561
Fort Yates, North Dakota

September 23, 1976

Mrs. Shirley Plume, Superintendent
Bureau of Indian Affairs
Standing Rock Agency
Fort Yates, North Dakota 58538

Dear Mrs. Plume:

Transmitted herewith is Tribal Council Resolution No. 519-76, which resolves that the Tribal Council of the Standing Rock Sioux Tribe request that the Bureau of Indian Affairs reinstate the Higher Education Program back into the Band Analysis for Fiscal Year 1978 and that local control of student funding remain at agency level until such time the Tribe determines otherwise. Also, that the Tribal Council of the Standing Rock Sioux Tribe request assurance that they will receive their full allocation for Fiscal Year 1978 and also in the future. Further, that the Area Director Bureau of Indian Affairs, reconsider the level of funding for the area office in view of the need being expressed by respective agencies for increase and funding.

This resolution is transmitted to you for your information and for proper forwarding to the Area Office.

Sincerely,

Clayton Brownotter, Vice Chairman
Standing Rock Sioux Tribe

CBO:sa

Enclosure

"Watching the Tribe's Welfare"

RESOLUTION

No. 519-76

WHEREAS, the Standing Rock Sioux Tribe is an unincorporated Tribe of Indians having accepted the Indian Reorganization Act of June 18, 1934, and the recognized governing body of the Tribe is known as the Standing Rock Sioux Tribal Council, and

WHEREAS, the Standing Rock Sioux Tribe under its Constitution approved by the Secretary of the Interior on April 24, 1959 pursuant to Article IV, Section 1, (c) through its various powers by enactment of an appropriate motion, resolution or ordinance subject to any limitations imposed by the Constitution or applicable statutes of the United States, and

WHEREAS, the Tribe is empowered to promote and protect the health, education and general welfare of the memebers of the Tribe and administer services that may contribute to the educational, social and economic advancement of the Tribe and its members, and

WHEREAS, it is the policy of the Tribe to encourage education and to take an active interest in the education of the students, veterans, others on welfare and older adults who seek education within the communities of the Standing Rock Reservation, thus qualifying as knowing the students best and are best equipped to serve them at this local level.

NOW THEREFORE BE IT RESOLVED, that the Tribal Council of the Standing Rock Sioux Tribe request that the Bureau of Indian Affairs reinstate the Higher Education Program back into the Band Analysis for Fiscal Year 1978 and that local control of student funding remain at Agency level until such time the Tribe determines otherwise.

BE IT FURTHER RESOLVED, that the Tribal Council of the Standing Rock Sioux Tribe request assurance that they will receive their full allocation for Fiscal Year 1978 and also in the future.

BE IT FURTHER RESOLVED, that the Area-Director Bureau of Indian Affairs, reconsider the level of funding of the area office in view of the need being expressed by respective agencies for increase and funding.

BE IT FURTHER RESOLVED, that the Chairman and the Secretary of the Standing Rock Sioux Tribal Council be authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

CERTIFICATION

We, the undersigned, Chairman and Secretary of the Tribal Council of the Tribal Council of the Standing Rock Sioux Tribe hereby certify that the Tribal Council is composed of 15 members of whom 15, constituting a quorum, were present at a meeting thereof duly and regularly called, noticed and convened and duly adopted by the affirmative vote of 13 members with 0 opposing and with 2 not voting. Chairman's vote is not required except in case of a tie.

Dated this 23rd day of September 1976.

Chairman, Standing Rock Sioux Tribal Council

ATTEST:

Leona Claymore
Secretary, Standing Rock Sioux Tribal Council

(OFFICIAL SEAL)

Education DEC 06 1976

12-3

12/3/7

Respond
12-3-76

Memorandum

To: Commissioner of Indian Affairs
Attention: Director, Indian Education Programs

From: Office of the Area Director

Subject: Request from the Turtle Mountain Tribal Council that their Community College be placed on the Band

Attached is Resolution Number 1030-10-76 from the Turtle Mountain Band of Chippewa Indians and a position paper relating to the above subject.

For your information the Turtle Mountain Agency did submit a band for Fiscal Year 1977 which included funds for the Turtle Mountain Community College. Since they wanted to show this as a priority and separate it from college student assistance funds they placed it on line code 08-1399 all other Career Developments.

Because of the mechanics of the process there was no means of showing this figure on the programming forms, therefore it was mandatory that the funds be included in line code 07-1365 College Student Assistance where it subsequently lost its identity.

This was a matter which the agency and tribe could take care of locally but the removal of college student assistance from the band prohibits them this determination.

Since this funding is controlled by your office we are transmitting the Resolution and Position Paper for your information and response.

(Sgd) Harley D. Zephier
Area Director

12/7/76 Called ~~Ken D~~ Fred Gillis and told him of the situation of $42,000.00. He will discuss this with Ken and Harlan

Attachments

cc: Tribal Government and Indian Rights
Area Director

Subject
Chrony
Education:EStark:jhd:12-3-76

RESOLUTION NUMBER 1030-10-76 OF THE DULY ELECTED AND CERTIFIED GOVERNING BODY OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS

WHEREAS, the Turtle Mountain Band of Chippewa Indians, hereinafterreferred to as the Tribe, is an unincorporated Band of Indians acting under a revised Constitution and Bylaws approved by the Secretary of the Interior on June 26, 1959, and amendments thereto approved April 26, 1962, and April 3, 1975, and

WHEREAS, for 1977 the Tribal Council established the Turtle Mountain Community College as a "local priority" on the Band analysis under the catagory "other career development", and

WHEREAS the established "local priority" was later shifted to the "Higher Education" catagory without approval of the Tribal Council, and

WHEREAS, the Bureau of Indian Affairs has notified the Tribal Council that all "higher education" money is to be removed from the Band Analysis for fiscal 1978, and

WHEREAS, this shift will mean the loss of funds for the Turtle Mountain Community College without Tribal Council approval.

THEREFORE BE IT RESOLVED that the Turtle Mountain Band of Chippewa Tribal Council request the Bureau of Indian Affairs to place the Turtle Mountain Community College back on the Band Analysis, and "other career development", where it was originally intended to be, and

BE IT FURTHER RESOLVED that the amount be at a base of $42,000.00 with 99,900.00 at the 75% level. 60,000.00 at the 110% level and 100,000.00 at the 129% level, and that funds for this catagory be taken from the "Higher Education" catagory where they were misplaced.

CERTIFICATION

I, the undersigned Secretary-Treasurer of the Turtle Mountain Band of Chippewa Indians, hereby certify that the Tribal Council is composed of nine members of whom nine members were present at a meeting duly called, convened, and held on the 7th day of October, 1976, that the foregoing resolution was adopted by an affirmative vote of seven members, one member absent with the Chairman not voting.

Edwin J. [illegible], Tribal Chairman

Janice Azure
Janice Azure, Secretary-Treasurer

POSITION PAPER
TURTLE MOUNTAIN COMMUNITY COLLEGE AND THE BAND ANALYSIS OF THE BUREAU OF INDIAN AFFAIRS

Introduction

The following sets forth the position of Turtle Mountain Community College relative to the Band Analysis process of the Bureau of Indian Affairs. The concerns expressed here relate to the Band budget for FY-1977; FY 1978 and the future.

Turtle Mountain Community College is convinced that every tribal member who wishes to attend college have the opportunity to do so. In addition each tribal member should not be denied access to such opportunities merely because he wishes to remain in his tribal community on his Reservation.

In partnership with the Bureau of Indian Affairs, TMCC seeks to provide such opportunities to such community - bound individuals. TMCC does NOT wish to deny opportunities for higher education to tribal members who are willing and able to attend college away from the Turtle Mountain Reservation.

Accordingly, TMCC is convinced that a program of higher education scholarships need continue to be maintained for Indian students to attend the college of their choice. BUT financial support should be given to maintain the institution of higher education for Turtle Mountain tribal members who wish to attend college locally. TMCC emphasizes that BOTH need be maintained without the provision of either inhibiting provision of the other.

FY 1977

It is TMCC's position that allocation of funds under the Band Analysis system should not create unnecessary competitiveness for funding amongst the various B.I.A. components. Accordingly, in connection with the B.I.A.

Band Analysis for FY 1977, Turtle Mountain Community College officials met with the Tribal Council, sought and received inclusion of support for Turtle Mountain Community College as a line item on the Band Analysis SEPARATE from the line item allocation for "College Student Assistance."

Subsequently, through some oversight the FY 1977 Band as returned to the Turtle Mountain Agency contained no line item for Turtle Mountain Community College. Further inquiries revealed that the allocation for TMCC as INCLUDED in the amount for "College Student Assistance" (SEE ATTACHED MEMORANDUM). It is TMCC's position that such consolidation counter to definite tribal intent violates the spirit of Self-Determination. Subsequently TMCC sought and received Tribal Council approval to contract $42,000 from this line item to once again SEPARATE TMCC funds from those allocated for other purposes. (SEE ATTACHED RESOLUTION) To date the funds from this contract have not been received, but are anticipated.

It is TMCC's position therefore that the BIA Higher Education Scholarships officer only obligate that portion of the College Student Assistance budget that remains after subtracting TMCC's $42,000 allocation.

FY 1978

The new development of the BIA Central Office's decision to remove "College Scholarship Assistance" from the Band Analysis process has further complicated matters. In that TMCC's budget is "hidden" in this category TMCC is in effect removed from consideration for further funding, unless other alternatives are explored.

It is TMCC's position that some of these alternatives are less desireable than others. One alternative is to subtract funds, a little bit here, and little more there, from the remaining Band Analysis items until a reasonable base is established for support of T.M.C.C. This alternative is considered very undersirable. Existing components are minimally funded to meet current needs, so to expect each of these to take even small cuts is unrealistic. A second alternative would be to wait until a level of support is established nationally for BIA higher education programs and seek a contract from the Central Office of BIA. The risks of this alternative are obvious. T.M.C.C. would be competing with all other tribes in the U.S. for funds to serve a specific tribe. A third alternative is to establish a base figure for TMCC support on the 1978 Band Analysis so that funds are specifically sought for TMCC support along with other Turtle Mountain Agency components. This alternative appears to be the best. It has the advantage of (1) clearly establishing TMCC in its proper perspective as a tribal priority and (2) leaving other options open should an acceptable level of support not be achieved. It leaves open, for example, exploration of the second alternative above, seeking a contract from BIA central office overall appropriation for higher education or seeking of addon appropriations at a later date.

The Future

In that the Bureau of Indian Affairs has primary responsibility to insure education opportunities for enrolled American Indians, it is TMCC's position that the BIA should agressively seek funds to support Indian community colleges such as TMCC. The BIA should fulfill its Congressional obligation to make specific recommendations toward needed Congressional action to provide such support, as was mandated by the PL. 93-638 (Community College Survey Section).

It is TMCC's position that sound and orderly development - economic and otherwise - needs the involvement of informed and qualified tribal embers. Sociologists and economists has repeatedly cited the "skimming" f the most educated and competent individuals from the Reservation by the ajority society as a factor inhibiting Reservation development. TMCC eeks to reverse this trend by encouraging educated and competent tribal embers to return to the Reservation to help, while encouraging individuals ith great potential to serve the tribe to take their college courses in heir home community and remain to serve as leaders in tribal development.

In short, if the BIA sincerely endorses the "Bootstrap" approach — ndians are best helped by enabling them to help themselves -- then the IA should explore all avenues toward enabling tribal colleges such as MCC to help raise the tribal competency level. Indeed to do otherwise ppears an abdication of federal responsibility to alleviate chronic con- erns (such the host of social ills attendent upon the underdeveloped tatus of Reservations) for its Indian citizens.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
STANDING ROCK AGENCY
FORT YATES, NORTH DAKOTA 58538

November 15, 1977

IN REPLY REFER TO:

Honorable Michael T. Blouin
United States Congressman
Committee on Education and Labor
2181 Rayburn House Office Building
Washington, D. C. 20515

Dear Congressman Blouin:

In response to your letter of October 31, 1977, the following is being submitted.

It is near impossible to determine the "dollar savings" in area administration overhead. However, it may be assumed that it will be substantial when considering the time agency employees spend in clarifying Bureau policy and regulations or obtaining approval of administrative actions through directing correspondence or placing telephone calls to the Area Office. In these instances, the agency calls the Area Office and the Area personnel in turn call and/or forward correspondence to the Central Office for final clarification and/or final approval.

We anticipate that increased local control will lead to increased local overhead for the first two years this may be in effect. This is due to the fact that changes such as this usually, at minimum, require this amount of time to establish workable administrative procedures.

After more consideration and discussion with the local educators, I feel that the local school, with the Agency providing assistance, should be responsible for staff recruitment and selection. This would allow for greater imput from the Boards of Education; and in a sense, be more realistic is terms of self-determination.

I do feel that our Board of Education can handle the extra responsibility that this bill will give them, as they have, for the past seven years, been completely responsible for the administration of various compensatory education programs. Also they have developed a comprehensive local school policy and have been very active in implementing comprehensive planning for our schools.

It is very difficult to predict whether or not there will be sufficient applicants for the teaching positions; however, this should not be a deciding factor as presently under the Civil Service there may be sufficient applicants but our experience has been that this does not necessarily guarantee us that the positions will be filled by qualified applicants. Allowing the Bureau to contract will staff, rather than going through the Civil Service, will allow the local school to obtain the caliber of teachers we feel we need. Qualifications will be evaluated in terms of state teacher certification, as well as standards established by the communities such as the awareness of the unique needs of Indian children.

If given local recruitment and selection we hope to implement a full-scale recruitment program. This would include developing a program recruiting through the teacher colleges in North and South Dakota, as well as a comprehensive advertisement program through Teacher Placement Bureaus in a five-state area, educational journals and other sources such as Job Line.

I do hope this information is sufficient, and if further information is needed please contact me.

Sincerely yours,

Superintendent
Standing Rock Agency

QUESTIONS FOR SHIRLEY PLUME

1) Do you anticipate that this bill, as written, will cut down on area administration overhead?
   a. How, and how much in your Agency?
   b. Will the increased local control lead to increased local overhead?
   c. Will this be offset by savings at the Area level?

2) In the statement you presented before the Subcommittee, you said that the Agency should have funding "management prerogatives," and staff recruitment and selection. In the bill, these would rest with the local school, with the Agency providing assistance. Which is the best idea, and why?

3) Can the local Indian school boards in your Agency handle the extra responsibility that this bill gives them?

4) If new teachers are no longer hired under Civil Service, will there be sufficient applicants to fill the jobs?

How would you suggest this problem be addressed, should you answer yes to the above question?

INDIAN EDUCATION—OVERSIGHT

Part III: Bureau of Indian Affairs—Reorganization

THURSDAY, SEPTEMBER 29, 1977

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 1 p.m., in room 2261 of the Rayburn House Office Building, Hon. Michael T. Blouin presiding.

Members present: Representatives Blouin, Mottl, Quie, and Pressler.

Staff present: Alan Lovesee, counsel; John Forkenbrock, staff director; Jeff McFarland, majority staff; Christopher Cross, minority senior education consultant; and Jennifer Wysong, minority staff.

Mr. Blouin. The subcommittee will come to order.

The Subcommittee on Elementary, Secondary, and Vocational Education in conjunction with the Advisory Study Group on Indian Education is conducting its sixth in a current set of oversight hearings on Indian education.

Today will be a continuation of the discussion on H.R. 9157 with regard to the reorganization of the Bureau of Indian Affairs.

Participating in today's hearings are representatives from the BIA agencies and schools. We are pleased to have the people who will be charged with implementing any action we take present their views on this subject.

Statements of the BIA personnel represent individual opinions. Those views and opinions have not been cleared with the Bureau of Indian Affairs; therefore, they do not necessarily reflect official policy.

Unfortunately, Mr. Merback will not be with us today. However, Mount Edgecumbe School will be represented. Whoever will be speaking for Mr. Merback, will you please identify yourself when we ask you to come to the table.

We would like, for the sake of speed this afternoon, to take all six of our witnesses at one time, as a panel. We are going to be interrupted, probably, several times with votes. Therefore, a panel will probably lend itself to better understanding of what everybody has to say.

If you would come forward, Mr. Ray Cleaveland, agency superintendent for education, Cherokee, N.C.; Mr. Ernest Ingraham, education specialist, Fort Defiance Agency, Arizona (Navajo area); Mr. Donovan Heath, principal, Dilcon School, Winslow, Ariz.; Ms. Mary Widenhouse, principal, Cherokee Elementary School, Cherokee, N.C.;

page 310 blank.

Mr. Edward Merback, or his representative, Mount Edgecumbe School, Mount Edgecumbe, Alaska; and Mr. Art Smith, principal, Shonto Elementary School, Shonto, Ariz.

Those of you who are here, if you would come up to the table, and identify yourselves, for the record. We have a complete text of all your testimony. They will be inserted in the record in their entirety, and we would appreciate if you would summarize your statements, if that can be done without losing the points that you want to make.

[The prepared statements follow:]

TESTIMONY

ON

INDIAN EDUCATION

SECONDARY & VOCATIONAL EDUCATION SUBCOMMITTEE

COMMITTEE ON EDUCATION & LABOR

ERNEST E. INGRAHAM
Education Specialist

BUREAU OF INDIAN AFFAIRS
FT. DEFIANCE AGENCY
EDUCATION
FORT DEFIANCE, ARIZONA

September 27, 1977

TESTIMONY

OVERSIGHT HEARINGS ON INDIAN EDUCATION - SEPTEMBER 29, 1977

Good afternoon Mr. Chairman and Committee Members. My name is Ernest E. Ingraham and I am an Education Specialist for Administration working out of the Education Office in the Fort Defiance Agency.

The need "to reorganize the operations of the Bureau of Indian Affairs for the purpose of improving Indian Educational Services" has been a tremendous task of many people and educators for many years and the draft legislation we are discussing today plays a further important step. There is always room for improvement, adjustment and new ideas and hopefully what we accomplish at these hearings will aid to further accomplish the goals of Indian Education.

The establishment of a Director of Office position is needed in order to give an overall direction to the education of Indians, since Education plays the major role within the Bureau of Indian Affairs and needs the sole attention of such a director. However, we feel there is a definite need to establish specific and definite lines of chains of command and these should be spelled out specifically. The suggestion that supportive services and personnel who deal with education should be under the direct supervision of the Director of Office is good. As written in the draft, a conflict of supervision may occur when the needs of the division supervisor and the director are in conflict. Furthermore, these supportive services should be clearly indicated.

We feel the avenues of monitoring and evaluating should be clearly spelled out. For example, there is a need to know specifically what personnel will monitor and evaluate and when the monitoring and evaluating has been accomplished - who do they report to - the Assistant Area Directors of Education or the School Superintendents. We feel the school superintendents should ask for monitoring and the results should be reported directly back to the school superintendents because they can then implement immeidate changes to the program without having to wait for channel processing.

The answers to questions such as "how is assistance going to be provided and what kind, needs to be taken into consideration. Guidelines have to be clear.

Under the sub-heading of "Implementation of Transfer", we feel that not only the transfer of functions but also transfer of personnel and operations procedures, so as to create a sub-division separate from the Bureau, should be included as part of the proposed Bill, which might assist personnel, directly involved with such a transfer, to operate on a smoother scale.

Under the "Allotment Formula", some questions come to mind such as, "what is the determining factor for the closing of a school?" We feel that specific and concise guidelines need to be clearly established. Another question, which would be applicable to my Agency, is "should some schools be combined?" As an example, in one area of our Agency, we have 4 schools serving the general immediate area. Two of the schools are BIA, the other two, public. In this draft legislation, one of the special cost factors listed is "isolation of the school". We feel "isolation" is a new factor and is good and something that has been needed for a long time.

There is a need to define "need for special staffing, transportation, or education programs" - at the present time we have Title I programs and in the future, PL 94-142 program will supply us with additional funding. Will these be combined with the regular program?

Under food and housing costs there is a dire need for more housing at all schools within our Agency. There is at present, for example, no housing for any new staff members coming into our Education Office . People who apply for our positions have to be told that there is no housing and as a result we fail to get the personnel we need.

Under "the cost of providing academic services", we do not know what it would cost because no studies have been done to make a comparison. We feel there is a definite need for state accreditation and we should be accredited by school accreditation standards in order to parallel with public schools.

Under the paragraph referring to federal funds "being administered by the Bureau used to assist Bureau and Indian-controlled contract schools shall be allotted in accordance with the formula established...", we feel a careful survey should be taken because in the case of our Agency, we have 14 schools which would fall under the purview of approximately 6 different districts. The bookeeping mechanics of keeping the records accurate and consistent would, as we see it, require a separate staff for this type of record-keeping alone. It would be feasible, however, if specific guidelines were established in order to accomplish such a task successfully.

Direct Funding - We do not feel the funds should come direct from Washington to the schools. We feel the Agency Offices should maintain central control of the budget. For one thing, the expertise is not available at each school site. Even if the Director did provide funds for this it is just a shifting of funds from Agency. We think it should be sent directly to the Agencies with the budget prepared 3 years in advance and updated each year. This central control would allow for the re-allocation of funds when needed, faster and at a more local level, as needed. A school might have to use unexpended funds for unnecessary items while another school would have to do without educational necessities.

At the present time, our area office prepares the budget and the Agency reviews and approves it. The budget is then sent to the schools for review, adjustments, and then re-submitted to the Agency for finalization. This, up to this point, has been a workable operation and central control has been maintained at the same time.

In the paragraphs referring to local school boards, we would like to note that at the present time our Tribe, the Navajo Tribe, has no control over our local school boards. It appears from the draft legislation content that this refers to the phasing-in steps for tribes to take over the Bureau of Indian Affairs, which we are in agreement with under the Indian Self-Determination Act.

Under "Education Personnel" of the drafted legislation, we would like to point out some of the problems we foresee; the Civil Service employees would lose job security they now feel under Civil Service purview. In my interpretation of section 105e of Public Law PL-638 a civil service employee is faced with Tribal employment, relocation, reassignment or termination.

(Example - the Indian who does not want to face relocation but does not want to work for the Tribe.)

Retirement benefits could be lost by some of those employees near retirement status. We feel there is a need for more flexible options and the need to make job offers more attractive for those wanting to work for the Tribe. As an example, personnel hired as teachers should be offered some type of contract which might give them more job security.

Under "Management Information System" - While we feel this operation would be good information to have, we wonder how will the information be utilized and to what extent. This type of information is available now at the Agency and Area levels for our purpose. I see no definite need to have this information from other agencies.

I think the time span proposed under "Bureau Education Policies" is good practice and should be made a part of the Bill.

We think the idea of on the job training for potential Indian Educators is a good one and with a good uniform plan much can be accomplished with this type of program - but does this mean that qualifications will be down graded?

We think the Annual Report is excellent - We feel a good yearly assessment is needed and this assessment should be made available to all Bureau offices from the Areas to Agencies to Schools.

In closing I would like to say that the overall intent of the Bill is good, however, as I have stated in my testimony there are certain ambiguieties that need to be clarified.

RESOLUTION

EASTERN NAVAJO AGENCY SCHOOL BOARDS

SUBJECT: Opinions and Recommendations Regarding Concept Paper on Direct Funding Submitted by the Deputy Associate Commissioner for Education Programs

WHEREAS:

1. The Deputy Associate Commissioner for Education Programs has prepared and submitted for field review and comment a position paper on direct funding for BIA Schools, and

2. The Eastern Navajo Agency School Board considered and studied all known aspects of the direct funding concept at a scheduled meeting on March 22, 1977 and decided to present the concept paper to individual Agency School Boards to receive their input, and

3. A meeting of the individual Agency School Boards was conducted on April 4 and 5, 1977 at which the concept of direct funding was discussed at great length and the contents of this resolution was prepared.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Eastern Navajo Agency School Boards consider the concept of direct funding to have merit as an effort to insure that equal monies are received at the lowest feasible administrative level for distribution to schools, and

2. The lowest feasible level for our twenty agency schools should be Agency and distribution to each agency school would then be made after funding requests for each school has been considered and acted upon by the Agency School Board, which is the current funding procedure, and

3. The Agency School Boards consider Agency to be the lowest feasible level because we have an extremely good relationship with our Agency Superintendent and School Superintendent, and staff is currently available at Agency to handle the procedures for accountability of funds and assist each local school board, and

4. We would like to reserve the option to change at a later date if for some future reason our recommendation for a direct funding system does not work.

CERTIFICATION:

The foregoing was moved for adoption by Tom Rafael (Baca School Board) and seconded by Charley Toledo (Crownpoint Boarding School School Board) thoroughly considered and discussed with a vote of 65 in favor and 0 opposed at a meeting of the Eastern Navajo Agency School Boards on April 4 and 5, 1977, at Crownpoint Boarding School, Crownpoint, New Mexico.

Richard Montoya (Torreon School Board)
President
Eastern Navajo Agency
School Board

Resolution of the
Fort Defiance Agency School Board
May 18, 1977

TO: NASBA Executive Board, Window Rock, Arizona

FROM: Fort Defiance Agency School Board, Fort Defiance, Arizona

SUBJECT: Direct Funding Concept

WHEREAS:

1. The Fort Defiance Agency School Board discussed the direct funding concept.

2. At the present time the direct funding system is operating as such:

   a. Bureau of Area Office
   b. Area Office to Agency
   c. Agency to schools

3. The Area Office divides the allocation several ways before it reaches the Agency Office.

4. The Agency again, divides the funding among the five agencies on the Navajo Reservation.

5. Then the Agency gives the schools so much amount to operate with for a year.

6. The small amount of money that the schools receive is insufficient to cover all expenditures within the schools.

NOW THEREFORE BE IT RESOLVED:

1. The Fort Defiance Agency School Board would like to have the direct funding system set up as such:

   a. Bureau to Agency
   b. Agency to schools

2. In accordance of Kinlichee local school board comments on direct funding, the Fort Defiance Agency School Board discussed and voted to make a resolution and present it to the executive board for discussion at the meeting on May 19, 1977.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Fort Defiance Agency School Board at a duly called meeting at Wide Ruings Boarding School at which a quorum was present, and that same was passed by a vote of 8 in favor and 0 opposed, this 18th day of May 1977.

Rocky W. Yazzie
Agency Board Chairman

Bessie Brown
Agency Board Secretary

Cherokee, North Carolina
September 28, 1977

Representative Carl D. Perkins
Chairman, Committee on Education and Labor
Congress of the United States
Washington, D. C. 20515

Mr. Chairman and members of the Committee:

Thank you for the invitation to appear before this Committee to express my viewpoints regarding the bill to reorganize the operations of the Bureau of Indian Affairs for the purpose of improving Indian educational services. My name is James R. Cleaveland and am presently the Education Program Administrator for the Cherokee Agency located in Cherokee, North Carolina. Prior to being selected for this position I was a high school principal, an elementary teacher supervisor, elementary teacher and high school mathematics teacher, all within the Bureau of Indian Affairs. Duty stations included Alaska, Washington, D.C., New Mexico and North Carolina.

My present position includes the responsibility of supervising all activities involving the overall educational program for the Eastern Band of Cherokee Indians. However, the majority of my responsibility lies with supervising the operation of two schools serving approximately seven hundred twenty-five students in grades kindergarten through sixth grade and the other serves five hundred fifty students in grades seven through twelve. It is this responsibility and the effect upon these schools upon which I will express my views.

Section (1)(a) I seriously doubt the Office of Indian Education Programs could successfully assume the duties of daily direction, supervision and expenditures of all funds affecting education programs from a centralized location. When Indian tribes are required to work closely with offices located away from their reservations a great amount of travel will be necessary. Our school system once was directly under the Central Office, as were all schools now under the Eastern Area, and experience proved it did not work. This was before most of the staff of the Office of Education was re-located in Albuquerque, New Mexico and was supposedly at the disposal of the local school officials at Cherokee. The affected tribes, as well as bureau officials, found this situation unworkable then. Why should one expect it to work now?

Section (1)(b) Does this section transfer the responsibilities of plant management to the Director of Education, the area education personnel, the agency education personnel or the local school principal? Also, who remains responsible for Adult Vocational Training, Adult Education, and Higher Education Grant programs?

Section (1)(c) Does this section imply agency staff now located in personnel, property and supply and contracting would be under education, or would education simply request services from the functions? Does education set up their own plant management services, personnel offices, property and supply, and contracting services at each agency thereby duplicating where there is a BIA school system? The questions in these two sections cannot be answered by me and probably not by you or anyone else because I doubt if the people proposing this plan have given any of these things consideration. I submit to you, though these areas may not have an educational effect on a school system, it certainly will have an impact on its operation!

Section 2 Since this greatly affects a multitude of employees and all Indian tribes, shouldn't the policies and procedures be formulated and discussed before the bill is passed? It appears as if after years of developing and cultivating involvement from Indian communities, along with much verbage about Self-Determination, action is going to be taken without any kind of Indian input.

Section 3(a) If the Director of the Office of Education is allowed to implement his funding proposal contained in the Concept Paper on Direct Funding, dated March 17, 1977, schools now operated by the Bureau of Indian Affairs will retrogress twenty-five years in a very short time. Cherokee Agency schools cannot function on a budget formulated on a state allocation formula nor could most other Bureau schools. There is not a state in the nation that has adequate educational dollars at this time; and, the states in which the majority of the tribes are located are especially hard pressed for educational dollars. My own state, North Carolina, is 38th in providing funding to its schools. Most states require large portions of funding to be local responsibilities through local taxes and bonds. The vast majority of Indian communities or land areas have no tax structures from which to gather revenues to supplement state education basic allotments. The land base held in trust by the United States Government and the unusually low economic level of those residing on "Indian land" would in itself be detrimental to allow adequate financing or even bond issues for educational needs and purposes. The and result would be greatly reduced funding for these schools because the usual local share simply is not there. The pay scales or structures for Bureau employees (teachers, janitors, bus drivers, para-professionals, etc.) are probably higher than most state or public school systems. Whenever tribal officials consider implementing Section 105(e) of the Indian Self-Determination Act, will the state funding level necessitate unwanted termination of employees whom the tribes would really like to retain? This action or a reduced number of employees must be faced. In either case a reduced service to Indian students will be the result.

If the prime purpose of this bill is to get the federal government out of Indian education, it will accomplish the feat. However, if the federal government wishes to strengthen educational opportunities then increased funding to provide exemplary programs in bilingual, remedial and special education programs are needed. The piecemeal policy of depending upon other government programs such as Public Law 89-10 and Follow Through demands nearly as much time and effort in securing the projects, re-writing the terminology, securing funding transfers and negotiating contracts as the program operations themselves. Today, the average Bureau school could not offer a minimal education program with Bureau funding levels alone. Other programs should become part of the Bureau's basic allotment and funding levels increased rather than discussing minimal funding levels if quality education is to be offered Indian youngsters.

Section 4(a)(1) No provisions are provided in this bill for a tribe to have any input unless they want to not only control but also be totally responsible for the operation of the school system. This bill allows the Director of Education to simply allot funds and then charge the local school administrators and tribal education committees with the absolute responsibility of implementing within ninety days an educational program with whatever funds are alloted. Some tribes, such as the Eastern Band of Cherokee Indians, have flatly stated they do not wish to contract any programs for which they feel the Bureau has an obligation to operate. Provisions must be made to allow these tribes to have their wishes and desires honored.

Section 4(c) The phrase "to the extent possible" really allows the Bureau to assist tribes or not depending entirely upon the decision of the Director of Education.

Section 6(a) In my opinion, it will be extremely difficult for tribes to attract quality personnel under this provision. When one considers the isolation factor of most Bureau schools, the harsh living conditions, and the fact that Section 3 of this bill is going to require the tribes to implement comparable or lower pay scales than other school systems within the same geographic area the Bureau school is located and contains no provisions for a retirement system or job security, it is difficult to imagine there will ever be an abundance of teacher applicants. Existing or remaining employees, if there are any, retained under the provisions of 105(e) of the Indian Self-Determination Act, will spend as much time attempting to find government employment elsewhere as doing their job. By way of suggestion I would offer that the Bureau presently has a system of excepted appointments for Indian applicants. This appointment is valid only while the employee works for the Bureau. Surely a system could be implemented which would permit local school boards to hire teachers for one, two or three years temporarily and then convert the employee to an excepted appointment upon recommendation of the local school administrator and advisory school board. This system would allow for tribal involvement and input and would provide some incentive for quality personnel to work in Indian schools. The temporary appointment would allow local school boards and administrators the authority to hire and fire employees with a minimal of effort. Then these same individuals could determine whether employees recruited under this system were suitable for a career type of employment. It would seem that career opportunities, if not offered by education in the Bureau, will be sought else where by young, talented Indian people.

Section 6(b)(3) Who hires the Superintendent of Education for each agency? The guidelines of the act are pretty explicit as to who fires him; but no mention is made of how, when and what guidelines will be used in employing the clearly identified person responsible for educational operations.

Section 6(c)(d)(e) I agree on the concept of local school boards having input into the hiring of education personnel. However, I believe some system such as the one I have proposed in Section 6(a) should result in a more stable staff and a better quality recruit.

Section 8 The Office of Education should involve Indian tribes and leaders in formulating these policies and procedures.

Section 10 If the procedures of Section 6(a) are implemented where will the positions be to promote the recruits? This section specifically states new employees shall not be deemed employees or officers of the United States. Furthermore, existing employees will become tribal employees with retention of certain federal employment rights as set forth in Section 105(e) of the Indian Self-Determination Act. Where then are the positions to be located?

Section 15 What is the definition of the "Agency school board" as used in Section 6(c)? Since Section 6(c) delineates the responsibility and authority of different boards it connotates a difference between the local board and the agency school board.

In conclusion, I would like to say that the provision of Public Law 93-638 provides the opportunity for Indian tribes to assume operation of the school system or any part they wish. However, they are not forced to do so. Also, if they choose to operate the school and later decide to return the responsibility to the Bureau, the choice is theirs. As to date, no great rush has been exhibited by the Indian people themselves to move in this direction. The Eastern Band of Cherokee Indians presently operate two programs within the school system with total budgets of approximately $400,000. Another $400,000 is contracted by a tribal group who provides food, bus and laundry service for both the elementary and high schools. Yet this same tribe clearly and explicitly states time and time again they do not wish to operate or be totally responsible for the school operation. Why then should they be forced to assume this responsibility for the sake of supposedly improving Indian educational services?

I do not really believe there will be any improvement in Indian education until the following conditions are accomplished: adequate funding, meaningful and consistent direction for programs, adequate planning for tribal input and involvement and insured stability within the Bureau's educational system. In my opinion, if this bill is enacted it will be a great detriment to the Indian population.

I thank you for the opportunity to express my viewpoints on this very important bill.

James R. Cleaveland

James R. Cleaveland
Education Program Administrator

Cherokee, North Carolina
September 28, 1977

Representative Carl D. Perkins
Chairman, Committee on Education and Labor
2181 Raybourn House Office Building
Washington, D.C. 20515

Mr. Chairman and Members of Committee:

Thank you for the invitation to appear before this committee. My name is Mary Ann Widenhouse. I am Principal of Cherokee Elementary School, which serves about 725 children in grades Kindergarten through sixth. The school is located on land belonging to the Eastern Band of Cherokee Indians and adjoins the Great Smoky Mountain National Park in Western North Carolina. The present Elementary School opened in 1962. It resulted from the consolidation of smaller community day-schools that had been scattered over the Qualla Boundary since the 1950s. Before that all children had attended boarding schools.

I grew up in Cherokee and am 7/16ths Cherokee Indian. After having gone away to college, I returned and taught at Cherokee for nearly three years before moving to Baltimore, Maryland where I was involved in the Public School System of that city for nearly 14 years. While in Baltimore I earned a Master's Degree from Johns Hopkins. About 3 years ago I returned to Cherokee and shortly thereafter was made Supervisor of the Social Studies Department at Cherokee High School. I have been Principal at Cherokee Elementary for almost one year.

With my background I cannot speak of Indian Education or can I give valid recommendations to you concerning Indian Education. There are too many tribes with cultures very different one from another. The relationships that these tribes have with the larger white community and even with the B.I.A. are so unlike one another that to speak of Indian Education as though there was one monolithic Indian society is to do a disservice to the very people you purpose to serve. So I must speak to you in the narrow perspective of Cherokee Qualla Boundary, of my school system, as it is the only one I know in the Bureau; the one I am most interested in --- the one I want above all others to succeed. For this school system includes my own child, my numerous cousins, nieces and nephews, and the children of my childhood friends. I am involved here.

If these children are to become mentally alert and physically strong adults, they must have the skills that will enable them to build a good life for themselves. This good life must include ways for them to earn a decent living so as to be free of the parasitic existence that has disrupted the very fabric of life for too many Indians on this boundary (reservation). One concern uppermost in the minds of every aware Cherokee is the possibility that the process of reorganization and the principle of self-determination will be used by the U.S. Government as a way of divesting itself of the responsibility for helping the Indian people to overcome the legacy of deprivation and discrimination. The only way for the Eastern Cherokee really to become self-determining is to become economically self-sufficient and politically active --- two developments which can be greatly enhanced by an effective educational system. That is what education is about for the deprived and dispossessed: to develop the skills, knowledge, and traits of personality which allow one to get a good job, establish economic security, and become a person whose opinions are of consequence.

The problem at hand is : How can the Bureau of Indian Affairs and/or the Office of Indian Education Programs help the local school system provide the best education available for the children (and adults) at Cherokee?

I have read and commented on the Draft Legislation Providing for Reorganization of B.I.A. Schools with one question in mind: Will the proposed legislation --- or aspects of the legislation --- improve Indian educational services? If so, how? If not, why not?

Concerning Centralization Under the Director of the Office:

I understand quite well the need to fix responsibility and to coordinate the implementation of policies by establishing a central authority, but there are some real dangers here. My experience has been that some of our biggest problems are those which are engendered by the Washington Office's inability to process the most routine of matters --- for example, getting budget information or assistance with personnel actions. We are continually short of teachers in both the Elementary and High School, not because there are not qualified teachers willing to teach in the Cherokee Schools, but simply because of the Washington Office's gross ineptitude in processing the necessary papers. Some positions have been open for two years or more, and by the time these are filled others will have been open an equal time. Time and again we have been told "Sorry, but we seem to have lost the papers -- you'll have to initiate the personnel action again." I am afraid that any central authority attempting to assume responsibility for everything "except that education personnel located in ... area offices" will inevitably entangle us in similar frustrations.

Nothing is more important in the process of education than curriculum. Curriculum --- the planned learning experiences set up for the students --- is central to the function of the schools. Now, there is absolutely no way curriculum innovations can be developed and institutionalized in the schools by a remote central administration. Yes, curriculum papers by the volumes can be written in a central office and passed down from on high, but such is meretricious nonsense. Curriculum development which is to be effective must involve the teachers who are to teach it, although in most schools outside expert professional help is needed. Another factor preventing any centralized administration of curriculum is that the Indians in the U.S. are simply too diverse in their cultures to be amenable to a standardized curriculum set up and administered by a central office.

I understand the desire of an over-sight committee to attempt to bring into focus what is going on in Indian education throughout the U.S. Such an attempt will of necessity lead to some kind of centralization. My fear is that a well-intentioned attempt to rationalize and monitor Indian education under one general program will tie us in knots at the local levels.

I welcome any scheme of accountability that will help us to evaluate how well we are doing in relationship to other schools, both Indian and white. But even here, the setting up of meaningful evaluative guidelines that will help us monitor our effectiveness, the central office would have to work through our schools, not the other way around.

Concerning Implementation of Transfer:

The implementation of this transfer is totally unrealistic in light of the disruption it will effect within every facet of this agency. Our maintenance department would have to be completely reorganized, as also would our property and supply departments.

Concerning the Allotment Formula:

Of primary importance to the very existence of any school is its funding. The funds for this school serve a two fold benefit: First, to provide necessary maintenance, materials, services, personnel, etc. to operate effectively the school; and second, to provide needed income to the reservation. Both factors are extremely important on this reservation where unemployment can run over 35% during the winter months. It is most unfortunate that this allotment formula intends to use state public funding as the base of academic services to Indians. The Cherokee schools would be hurt severely since in 1974-75 N. C. schools received about $1,151 per child. This was 38th in the nation. This would in effect be punishing the Indians on this reservation for living in a poor state. Unfortunately few if any Indian reservations are loccated in the suburbs of rich states. If the Cherokee schools were to be funded only on a par with N.C. public schools our teachers would be paid somewhat less than they now get. And in education, as in anything else, you get what you pay for. We would lose our excellent school transportation system and would have to copy the state's poorer program.

The need in Cherokee is to have the highest quality education possible in an attempt to make up for the lack of motivation and educational stimulation characteristic of poor homes in poor rural regions. But quality education is expensive. And if the Indian children are to be raised in academic achievement to the level of non-Indian children then the very highest quality of education available must be provided. To me this means spending more money to have better teacher-pupil ratio, to have better prepared teachers working in better equipped classrooms, and to have specialists working to improve the quality of education for these students.

At present the Bureau depends heavily on other government funding for special programs vital to the development of all our children. Would the office of Indian Education Programs increase its allotment to Cherokee if we were to lose the services provided at the present time by Title I? (These services include remedial, tutorial and LD classes for students that qualify in grades 4-6). Or would the office come up with funds in lieu of the Title VI program which works with our homebound children and helps us meet the requirements for PL94-142? Would we be funded so as to make up for the grant that comes from Follow Through? How will funds for new buildings be allocated under this proposed bill?

What all of us worry about is this: Will the U.S. Government under the guise of reorganization gradually divest itself of its responsibility to help the Indian people over come generations of deprivation.

Concerning Educational Personnel:

As important to any school system as its funding is the educational personnel of a school --- especially the teachers. Teachers can make almost any program succeed, or they can make the best program fail. How can B.I.A. career personnel be asked to cooperate in a program that will be destructive to themselves? Low morale is becoming a problem among my teachers. First, many felt they were blocked in pursuing a career in administration due to Indian preference. Now, they feel that their very career as a Civil Service teacher is in jeopardy. These feelings are based in large part on rumors, but the rumors are becoming epidemic. It is true that in this bill personnel would have the opportunity to transfer, but many of my teachers have family ties as well as their homes in Western N.C. Professional teachers with many years of experience in the B.I.A. are going to find their ability to move to another area severely limited. Teachers unsure of their own future have little time or desire to do their best job in the classroom. The children in my school are hurt by this.

There are long-standing and deep-seated feelings of animosity against the B.I.A. school system, which, I would hope, are readily understandable in the light of the Bureau's neglect and mismanagement years ago. Notwithstanding the legitimacy of much of this animosity, if the School Board and the tribe are given unlimited authority in all educational matters, there might well be attempts to purge certain teachers from the staff. We certainly need to get rid of incompetent teachers. But such attempts are likely to involve some quite competent teachers who are simply the hapless victims of personal spite or a free-floating resentment. At this time we need diplomatic professional leadership, well enough informed on educational matters to be able to lead and to educate by rational persuasion. This is the way to real self-determination.

Here again I see ominous signs that the U.S. Government is using reorganization and the principle of Indian self-determination as means of backing off on its commitment to the Indians. Real self-sufficency and self-determination by the Indians will not be effected by any policy of "benign neglect". In education we need more professional leadership, not less. And we need the economic means to attract and to keep good teachers.

I would welcome the chance to hire and fire the personnel at my school provided I could offer incentives that would attract top notch people. Given this authority under the present system with the ability to do recuiting at the local level. I truly believe I could have one of the best schools in the state and maybe the Southeast. But to hamstring my efforts with this purposed bill would lead to a poorly qualified staff with a high turn over. The reservation could not compete with N.C. who has a good pension system and tenure.

Concerning Indian Preference:

Although I see the need for Indian children to have models of successful Indians, I think Cherokee students should have Cherokee models. But even more important is that teachers be fully qualified. If Indians are fully qualified I believe they should be given preference subject to acceptance by the local board. If the Indians are not fully qualified the students don't need them. Our first concern should be for the educational welfare of our children.

Concerning Management Information System:

I agree there is a need for a computerized management information system.

Concerning Bureau Education Policies:

The Eastern Band of Cherokees simply does not at this time have either the economic or human resources to do all that can and should be done for its children. Yes, the elders should be continually consulted with and have genuine imput into the decision-making process by which the educational programs for their children are set, but this does not obviate the need for dynamic professional leadership. A real danger is that non-Indian professionals not possessing a philosophical understanding of the principles of education, and therefore not capable of explaining or defending certain education programs, will, out of political expediency, capitulate to the momentary desires of ill-informed and confused people --- all in the name of self-determination.

What is needed are more highly educated professionals, who really understand the process of education, and who will work with teachers to develop a comprehensive curriculum which is coordinated from grade to grade and among the various departments within the school. This is something that cannot be done independently of the teachers. Most teachers have neither the time nor the knowledge to develop curriculum by themselves. So what is needed is curriculum personnel who will work with teachers to develop a coordinated curriculum which is respectable in the light of the most intellectual educational thought coming out of the universities and research centers.

Curriculum should be seen as the central concern of the school. All else is supportive. The facilities, the supplies, and all else are necessary, but they are all for naught if what is being done in the classroom does not make sense and simply is not effective. The curriculum should be rationalized on paper but what counts is what teachers are doing and what is happening in the classroom. All of this, of course requires money and professional expertise.

Concerning Uniform Education Procedures and Practices:
Due to the diversity among the various Indian tribes I question the validity of uniform procedures and practices for all Indian students. You are assuming a monolithic Indian society which simply does not exist .

Mary A. Widenhouse

Mary A. Widenhouse
Principal, Elementary

STATEMENT

by

Donovan M. Heath

for

Oversight Hearings

House of Representatives

Committee on Education and Labor

"INDIAN EDUCATION"

September 1977

INTRODUCTION

The Navajo Reservation is a geographical area which embraces over 25,000 square miles and is a land of many contrasts.

It is a land of mountains and desert. A land of barren waste and green fields. A land of shrub and forest.

It is a land of people. Census reports vary, according to source, from 125,000 to over 150,000 Navajo people living within the Navajo Reservation in New Mexico, Arizona and Utah.

Dilcon School is located in the South-Western part of the Navajo Reservation and serves 740 students and their families within an area of approximately 690 square miles. Dilcon is a community school providing services in the areas of elementary education, adult education, community planning, development, recreation and social services. Despite declining enrollment in many Navajo Area Schools, the enrollment at Dilcon has represented a steady increase each year. As the Principal of Dilcon School, I consider it a privilege to have worked with the Navajo people for the past twelve years and to present this statement to this committee regarding Indian Education - Reorganization of the Bureau of Indian Affairs.

TESTIMONY - INDIAN EDUCATION BILL

SECTION I - A BILL

(a) A point in time has been reached when action is essential to restore creditability to Indian Education as controlled by the United States Government and to provide those educational and related services needed to make quality educational opportunities available as provided by treaty, by law and by reason of responsibility to children.

The separation of Indian Education from other Bureau functions at the Washington level will provide a system of authority and responsibility which is now clouded by the massive organizational structure of the BIA and which currently is not separated out until the level of the individual school is reached.

The Bill does not clearly outline this authority and responsibility of the Office of Indian Education Programs in areas related to facility management, construction, social services, adult education, procurement and other areas which cross between educational service to children and communities and other service areas within the BIA.

One of the greatest problems encountered at the local school level at this time is the centralization of services far from the physical location and supervisory responsibility of the school, thus forcing education to compete with all other BIA divisions for needed funds and services, as well as, with other schools.

(b) The Bureau of Indian Affairs does not have a clear outline of authority and responsibility between Central, Area, Agency and Local School. This has created a system of conflicting policies and worse, voids where no policy exists or where existing policy cannot be enforced due to lack of support.

The United States Government has through PL 93-638 set a policy for Indian Self-Determination. Implementation of such a policy requires that successes and failures be attributable to the "grass roots" operations of programs. This operation can only take place when the hierarchy of administrative levels is cut to a minimum and services are provided at the most local level recognized by the people providing and receiving services. This will vary according to the size of the area being served. In the case of the Navajo Araa, very limited technical assistance and coordination of functions can be provided from an Area Office which benefit schools.

(c) It is essential that authority and responsibility be vested in the local community. The agency education personnel can best serve to monitor, evaluate, assist and coordinate as provided in this section.

SECTION 2 - IMPLEMENTATION OF TRANSFER

SECTION 3 - ALLOTMENT FORMULA

(a) Consideration for implementation of new programs needs to be included in allotment formulas allowing funds for staff, equipment, supplies, materials, construction or remodeling.

The present system makes no provision for such implementation. The average time to implement a new program requiring all of the above elements (excluding contruction) is a minimum of five years. This lack of planning and coordination is evidenced in the hiring of personnel followed 1-5 years later by equipment, curriculum, textbooks, and other educational tools.

(b)

SECTION 4 - UNIFORM DIRECT FUNDING AND SUPPORT

(a) (1) The Bureau of Indian Affairs is NOT competitive in the Professional Educator market. This is due in large part to fiscal and personnel policies which make no provision for operation within the framework of the regular school year of September - June.

Depending upon administrative requirements, a three month prior notice of approximate allotment (July 1) may not allow competitive entry into the Professional Educator market where contracts for hiring are issued in the period March - May.

Under the present BIA employment system, all too often, Professional Educator positions are filled in August, September and October or later after public schools have issued contracts leaving BIA schools in a "take as available" position rather than competing for top educators.

Approximate funding allocations should be made April 01 with final funding allocation made by July 01 to begin October 01.

Educational services must be planned in advance, funded in advance and provided as needed. A child's educational opportunities measured in time are perishable, a fact, evidently not recognized under current operating procedures which allow schools to open with teacher vacancies, which allow teacher transfers at anytime and which treat education as a secondary responsibility.

(2) This section is not clear. It is understood that the local school board shall not have budget authority unless granted by a tribal governing body for cause. It is unclear why a remedy is needed for cause if a local school board has the desire and expressed ability to assume budget authority.

SECTION 5 - POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

This statement should provide the common goal needed for all people involved in Indian Education within the Bureau. Problems will be encountered in defining "Indian Control" but this is a decision that can only be made by the people receiving the services.

Every effort should be made to keep options open regarding determination of this "control" until local decisions are made and finalized. These options should also be expected to vary from one school to another depending upon the desires of the people at the local level.

SECTION 6 - EDUCATION PERSONNEL

(a) The impact in the field and specifically upon a local school of immediate implementation of this policy will be chaotic and very disruptive of the educational process for all children.

Staff members will be forced to make a decision regarding their committment to Indian Education based more on personal needs and their own future interests than upon their ability to contribute as members of a local school staff.

While it is recognized that "dead wood" needs to be cut from the Bureau staff, immediate implementation will also remove many of the best staff members. Those caught without the latitude to make a decision will be the local Indian employees who are forced to decide between loss of Civil Service benefits and leaving their home area to seek employment elsewhere.

It is the general concensus of the residents of the Dilcon School Community that such immediate action would definitely not be in the best interest of their school and the services being provided by the school although there exists a desire to continue to become more involved in actual control of programs providing services to them.

The need exists for local decisions to be made based upon local needs. Opposition to change is evidenced in many areas due to a continued effort to change all programs (school) to a different structure, yet the same. At the present time, it is estimated that less than 10% of the local schools within the Navajo Area could effectively make a change as outlined in Section 6 without detriment to the educational program over a period of 1-5 years prior to the rebuilding of an operable system at the local school.

A viable set of alternatives need to be proposed for conversion of employees to non-government status including the following:

a. Establish with the date of enactment of this Act whereby all staff appointed would be considered to be non-government employees (excluding supervisory personnel) with provision for automatic conversion to non-government of all employees at the end of ten years.

   This would allow all employees to seek employment elsewhere or to complete an additional ten years under Civil Service towards retirement without creating an instant exodus of personnel.

   Further, this would provide the opportunity for local boards to serve in both an advisory capacity for all staff and to begin the process of developing and implementing procedures for all aspects of local school operations.

Section 6 does not specify the appointment status of the School Superintendent relative to government or non-government status.

b. This section contains many points which could resolve the majority of existing areas of complete failure to provide satisfactory services. All teachers and school personnel need to be hired by the supervisor of the school if that supervisor is to be held accountable for the education of children enrolled at the school.

The authority to waive any preference of Indians for appointment to employment has been requested by several Advisory School Boards in the past two years. This authority is requested by the Indian people and is in line with their requests for self-determination in hiring practices.

SECTION 7 - MANAGEMENT INFORMATION SYSTEM

SECTION 8 - BUREAU EDUCATION POLICIES

This section does not seem to be consistent with previous sections which strongly emphasize local control and decision making. Many of the current problems regarding administration of local programs come from either too confining education policies as issued by the Bureau of complete lack of policies. This creates an extremely confusing set of operational criteria where the unknown rules.

This section seems to indicate that current Bureau policies and practices would be replaced by policies and practices from the office. No provision is made for local schools or even agencies to develop policies and practices which would best serve the interests of the people at the local level.

SECTION 9 - UNIFORM EDUCATION PROCEDURES AND PRACTICES

At the present time, it is impossible to obtain this information. Local school administrators operate at the direction of any of several other divisions who direct staff training programs, how funds can be spent, what can be purchased, who can be considered for hire, what type work can be assigned to an employee, etc. No overall coordination of existing programs is evident. It is needed.

SECTION 10 - RECRUITMENT OF INDIAN EDUCATORS

SECTION 11 - ANNUAL REPORT

SECTION 12 - EFFECT ON BUREAU FUNDING

SECTION 13 - REGULATIONS

SECTION 14 - GENERAL AUTHORIZATION

SECTION 15 - DEFINITION

SUMMARY

01. INDIVIDUAL DIFFERENCES

The most vital role that legislation can play in Indian Education is to provide the options needed for local decisions to effect local control of the educational programs within a community. It is of vital importance that individual differences of geographic areas, of schools and of the desires and goals of people within an area be allowed to function without suppression under regulations establishing a uniform system which in effect is not operable at any one location.

Past experience has indicated a continuing change without order within the Bureau of Indian Affairs which has lead to discouragement and even apathy on the part of local school staffs. It is the exception to find a school united with a community in an educational effort which provides services to children.

02. AUTHORITY - RESPONSIBILITY

It is impossible to identify lines of authority or centers of authority within the present BIA structure. It is possible to obtain five different answers to a question by asking give different people. Without this designation of authority, there can be no designation of responsibility. This has been evidenced within the Navajo Area by the centralization of authority within the Branches of Facility Mangement and Personnel, without plan, the almost total breakdown of services and the subsequent absence of responsibility for the conditions that exist.

If authority and responsibility for Indian Education are to be vested in the local community that is where it must begin. The following statements represent the desires of the Dilcon Community:

a. Earmark funds for a specific school. Do not transfer from one school to another or from one project to another.

b. Fund all schools through the Agency Office-School Superintendent on a basic allotment plus special project basis.

c. Update rules and regulations within the present BIA framework based upon flexibility for local school operations.

d. The difference in schools will be evidenced not as a condition of employment or operation under BIA or Independent but by who has the control at the local level and to what degree this control can be exercised.

e. Do not move too fast. Indian Education is a rapidly developing area of total Education within the United States. An acceleration of this development may totally discourage local control in some areas where even the idea of control is new.

f. Streamline Bureau operations, remove those offices which are not functioning to the advantage of local educational programs. Centralize services in the Indian Community responsive to community needs NOT in Washington, Area or even Agency offices, far removed from the people being served.

At the present time, our school operates on a tight line between the BIA and the desires of the local community which are often at direct odds. I feel that community support is stronger at this time than is BIA support thus we attempt to provide services as requested by the community often not in line with BIA policies.

As a Principal, policies and practices within the BIA are either oppresive or absent. Personnel policies make hiring of personnel restrictive.

EXAMPLE - Guard position vacant over 2 years.
Teacher Supervisor position vacant 9 months.
18 vacancies total.

The time required to fill a vacancy of an existing position varies from 60 - 360 days.

The decision making process is far removed from local control regarding hiring of personnel, funding priorities and other critical matters.

EXAMPLE - Over $500,000 was allocated to remodel a school damaged by staff, students and community. Our request for $6,000 for equipment for a Home Economics Center has been backlogged for three years even though a teacher has been hired and the program started. The Program was authorized three years ago, the Area Office has not made available curriculum guides.

The proposed legislation addresses many of the problems which confront school administrators. I think it is critical that revisions be made in personnel policies, preferably within the framework of existing Civil Service but by legislative action to allow timely and local control of hiring-firing practices. No solution proposed in the past has proved operable. This is a sad condition that we allow to exist when we are dealing with the lives and minds of children.

Direct funding whether through the Agency to the local school is a positive move toward local control and responsibility. Care needs to be taken to assess local desires and abilities as this option is exercised, however. Feelings of local residents on the Navajo Reservation strongly support funding to the Agency NOT to the local school at this time.

It is my hope that this Committee will continue to explore options regarding the organization of Indian Education and the gradual transfer of those options to the Indian people being cautious of two things:

01. Do not merely change the label or even shake up the contents to have them settle back into the same type unresponsive operation.
02. Do not give the Indian people options to work with and then take them back one at a time through regulations from Washington, Area, or Agency.

Bureau of Indian Affairs
Shonto Boarding School
Shonto, Arizona 86054

September 27, 1977

Honorable Carl D. Perkins, Chairman
Committee on Education and Labor
2181 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Perkins:

Thank you for the opportunity to appear before the Committee on Education and Labor, in the context of the hearings upon reorganization of the Bureau of Indian Affairs. There are some remarks I have prepared for the record to submit in advance of the hearing on September 29th at 1 P.M. in the Rayburn House Office Building.

Re. DRAFT LEGISLATION FOR REORGANIZATION OF B.I.A. SCHOOLS

Mr. Chairman, by way of background, I have worked for almost 25 years for the B.I.A. in the most isolated areas of the Navajo Reservation. Currently my position is that of Principal of the Shonto Boarding School. This school has 1100 students K-8 with the enrollment still climbing. This factor will show some significance as we proceed.

Under (b) on Page 2 of the rough discussion draft there are factors that would bear scrutiny. The size and diversity of this reservation requires a variety of schools to meet the needs of the people served. To emphasize the point, Navajo Mountain Boarding School is the most remote on the reservation. This school has 1 teacher and thirty students. Shonto Boarding School 50 miles south has 1100 students and a correspondingly larger staff. The area office is nearly 300 miles away with poor communications. Under proposed legislation assistance and direction would be very difficult, certainly impractical.

Recommendation: Where practical, establish school districts with a centralized larger school reporting to the Director of Education.

The size of a school system should be some indication of in-house staff capabilities, and therefore a yard stick for the need for the services vested under "C". B.I.A. schools organized within districts, would provide certain advantages in terms of efficiency, administratively, and of service to the Navajo people.

QUESTION: (c) Does the first line refer to agencies per se under an area office of the B.I.A.? At the present time layers of line and staff Education personnel exist at both Area and Agency offices. One would be quite sufficient.

In summary, reorganization of Indian Education is part due. The question begged is, will it be for the better or worse. We are concerned that:

1. Services for the Indian people be efficient, timely, and reasonable in delivery by:

   a. The elimination of over-lapping and restrictive layers of bureaucracy.

   b. Insuring all funds designated for the education of Indian children result in direct benefits to them. The skimming of the cream from the budget results in whey, a very watery substance.

   c. Assuring that local school administrators in carrying out the education program are not handicapped by "a" and "b" above. Further, local administrative control of plant maintenance auxillary personnel, i.e. school nurses be clarified under the bill being considered.

UNIFORM DIRECT FUNDING AND SUPPORT

The concept of Direct Funding bears careful consideration and scrutiny. There are potential disasters inherent that include the following:

1. As of this date no more that six (6) schools on the entire Navajo Reservation would have the capability for handling direct funding.

2. Many, many of the smaller schools will never with their own local resources be able to cope with the responsibility for funding.

Recommendation: Schools with enrollments of 750 or more be designated for direct funding initially. Use these schools as training grounds for another group with enrollments from 500 to 750. Establish practicality of Direct Funding based on size. I know of no better criteria.

Page 7 - Policy for Indian Control of Indian Education

Sec. 6 - Education Personnel

(a) We do not have information at hand to respond to this part of section 6 to establish a position. Copies of Chapter 51 or subchapter III of Chapter 53 of Title 5, United States Code, would be necessary for study. Also we would need section 3679 (b) of the Revised Statutes (31 U.S.C. 665 (b).

Section 6 Education Personnel

(b) This part of Section 6 would, if enacted, do much toward obtaining quality employees who could provide quality education. The practice and procedures now in use are a calamity to the Indian people and catastrophic to administrators. At this point in time neither B.I.A. principals nor school boards have any voice in the selection of teachers or counselors. There are no interviews or even any review of SF-71s, the standard form for application for Federal Employment. The standard procedure is for the Gallup Area Personnel Office to call the Agency to notify the local school that a new teacher is on his way from Gallup. There is absolutely no background on the individual. Many times a new employee arrives before we have been informed that he is on his way or for what job he has been hired.

Delays in recruiting and hiring are a disgrace to good administrative practices and are an injustice to the Indian people. Very good salaries, with excellent fringe benefits should bring in highly qualified, motivated employees. Instead, however, the hiring practice is so poor that the individual who can not find a job elsewhere, the misfit, the problem person is hired. These are people who need help themselves, gentlemen, they can not help Indian children.

At this late date with a large and growing school enrollment we do not have qualified teachers in all positions. You can imagine the quality of teachers generally available at this point in the school year. And this year is not out of the ordinary for late hires. Last year, teachers (?) were being assigned late in the second semester for vacancies existing prior to the close of the previous school year.

The school is now short some 20 non-professional employees because the required paper work is entangled in a maize in the Gallup Area Personnel Office. We are required to select from a list of eligibles to fill non-professional vacancies. Where does the list of eligibles originate? You can deduct easily the Gallup Area Office. How does the school obtain such a list? Well, that is a question needing an answer.

Hand in hand with a totally unsatisfactory hiring procedure in personnel management there is the utter impossibility of firing an unsatisfactory employee. Any time a supervisor files notice of intent to separate an employee who is not satisfactory, Employee Relations of the Personnel Office literally rushes to the employee's defense. The Supervisor is lucky if he, himself, escapes with a reprimand. In plain English there is no way to remove an employee for cause.

Well qualified and interested teachers visit the school, and then apply only to wait vainly for an appointment. Instead, a wash-out from nowhere appears sometime in November, December, or January to be placed on the pay-roll.

RECOMMENDATION:

At the very least non-professional school employees should be selected, hired, and papers processed locally. Professionals should be selected locally.

Page 8 POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

Section 6 (d) Local Indian control of education and Indian preference as an iron-clad regulation are contradictory. The local Shonto School Board is on record with a policy to hire the best qualified people without discrimination or prejudice. No other development except the B.I.A. hiring practices has had the adverse impact on quality education that Indian preference has had.

Section 6 (e) This allows the supervisor of each school to terminate an employee for cause. Depending upon the extent of restrictive language used this could eliminate the problems we face and described in our reaction to Section 6 (b).

CONCLUSION; Re. Draft legislation providing for reorganization of B.I.A. Schools.

1. The draft provides the mechanics for improving Indian Education. However, weaknesses appear to exist in structure and in non-recognition of the great diversity of factors affecting all Indian tribes.

2. The draft does not provide for auxiliary services for B.I.A. Schools. At the present time these are independent of local school administration. Plant management or facilities management personnel are assigned to every school location. However, supervision and control are exercised from the Gallup Area Office, over 200 miles away. These weaknesses exist now.

a. Priority concerns of school administrators extending to maters of safety are ignored by facilities management. Depending on severity and the extent of hell-raising locally, maintenance personnel take care of such items in their own good time.

Consider the safety and well-being of 1100 children who are students and approximately 200 employees and their families, a total of about 2000. The local school administrator under current policy and procedure does not have the authority to do more than "consult" facilities management, i.e. maintenance.

I urge in the strongest possible terms that something be changed albeit an interim policy change.

On numerous occasions this school has been left completely bereft of maintenance personnel despite the fact that many motors, pumps, boilers, fuel tanks, firefighting equipment, and gas, water, oil, and sewage systems require constant checking.

3. Another recommendation is that schools hire the school nurse. At the present time school nurses are hired, controlled and assigned by the Public Health Service. This provokes a conflict of interest situation not conducive to a smooth operation.

4. The draft was not intended, I presume, to include such matters as school construction. However, this is a matter of concern to many Indian communities. The Shonto Area Navajo people including their leadership have struggled without success for years to have their own high school. To attend high school Shonto students must leave their home community and consequently family influence and ties. This is an unsatisfactory solution and the good offices of those present are needed to assist the Shonto community.

Thank you, Mr. Chairman and members of the committee for your time and consideration.

Arthur L. Smith

Arthur L. Smith, Principal
Shonto Boarding School
Shonto, Arizona 86054

STATEMENT OF ERNEST INGRAHAM, EDUCATION SPECIALIST, FORT DEFIANCE AGENCY, ARIZONA

Mr. INGRAHAM. May I ask a question? Do you want me to read my statement, or briefly summarize?

Mr. BLOUIN. We have your testimony, as I said. It will be inserted totally into the record. So reading it would be somewhat redundant. If you have points in it that cannot be made without reading it, please feel free to read it. If you can make your points briefly, in summary, feel free to summarize.

Mr. INGRAHAM. The summary is very brief. It is just that the overall intent of the bill is good. However, I feel that there are many things in it that need clarifying, which I personally do not understand. The main thing is, what are we going to do with the present civil service employees, and how much reorganizing are we going to do? Where are these people going to fit into the total program?

That is roughly my summary, my two points. First, what are we going to do with the present civil service employees; and the second concern is, when we reorganize, how effective is the reorganizing going to be under the way it is given in the draft.

Mr. BLOUIN. Other than those two concerns, you approve of the approach?

Mr. INGRAHAM. Yes, the general approach.

Mr. BLOUIN. Mr. Cleaveland, you do not have to be quite that brief.

STATEMENT OF JAMES R. CLEAVELAND, AGENCY SUPERINTENDENT FOR EDUCATION, CHEROKEE, N.C.

Mr. CLEAVELAND. I can get very verbal at times. I would like to say something about the school system of Cherokee. Those of us involved in the program with the Cherokee are very proud of the system we have. The school administrations are proud of it. The tribal council is proud of it. The education committee is proud of it.

The part of contracting with tribal groups to work with Bureau programs is not unique to the Cherokee. It has been done before the Bureau ever promulgated that it should be done. Elected school boards are not new. The first time the Cherokee elected a school board was in 1970, and prior to that we had an appointed committee from the tribal council that we worked with.

So we have had a tremendous amount of tribal involvement in the school system in Cherokee, North Carolina. The high school that was completed 2 years ago was the first facility that the Bureau ever built that the tribe had any input into what the building was going to be like, and what it was going to accomplish, what the curriculum was going to be like, and this type of thing. The report that I submitted is within that type of a context.

We also contract a lot of our programs for the Cherokee school to other groups rather than the tribe. We have our bus operations programs, which amounts to $200,000 a year, approximately. The food is contracted to the Cherokee Boys Club, which is the name of the organization, for about $200,000. The laundry in the school system is contracted with the Cherokee Boys Club.

In addition to that, we were fortunate enough to get out and hunt programs, and we became a Follow-Through school program. The tribe receives about $350,000 a year from the Follow-Through office, and the Parent Advisory Committee has the total responsibility for that program. We have an approximately $475,000 title I program from HEW, which again is contracted to the Smokey Mountain Mental Health Clinic which is part of the State of North Carolina. The tribe also receives a bilingual project from the U.S. Office of Education for approximately $150,000 which is given to the Bureau and that is contracted to the tribe.

We are now awaiting approval on a special aid program. It means that the Bureau has to file a State plan, and that is holding that up. It will be contracted to Western Carolina University, which is one of the two big teacher training institutes in the State of North Carolina.

So we have had the experience of contracting. Why do we contract? The main reason that we contract is that we cannot get staff hired through the Bureau of Indian Affairs procedures and the Civil Service Commission. You cannot operate education programs with teachers coming in November and December in the year, and the vacancies staying open for 6 months or 2 years' time. Presently we have, I think, seven or eight vacancies in the school system. They were there last spring, and they were there this summer. So something has to be done.

This bill right here, the provisions of it, I am in favor of tribal involvement. I think that the people have to have input into the program of their students.

We do have tribal involvement. The title I program has policy advisory committee which has input into that program. The Follow-Through committee has a different group of parents. All of these are legislated by law right now. We have several groups of parents who have the right to hire and fire on that program, and submit budgets, and change them, if they so desire.

The bilingual program, the education committee has the final say-so on that program. Even on the hiring of all of our staff, it is brought before the education committee, on all of our paraprofessionals, who are local people, they actually do the hiring or recommend from the applications that we have, and we go along with their recommendations.

Of course, under the Civil Service Commission, many times we do not have any prerogative as to who is hired, whether it is a teacher, or this type of thing. When there are choices to be made, on those selections, it is discussed with the Education Committee, and their feelings are followed up. If we have disagreements, we have education meetings which sometimes last as long as eight hours. We go at it until we get results. Then, we try to do what is better for the students.

Some of the problems that I think will be encountered if this legislation goes through—I do not really believe that the tribes can get a stable staff to run their schools, a staff that they can keep. We have found under our title I project, we have three teachers in that program that have been in the school for over three years. We can offer them no job security, no retirement system. We are constantly training a staff, and as quick as they get trained, they get real competent in reading programs, special aid programs, then they leave and go elsewhere for permanent type employment, which we cannot give them under title I programs.

We are fortunate enough to be located 17 miles from Western Carolina University, which graduates 1,800 to 2,000 teachers a year. We are lucky enough to get young teachers but with the temporary type of employment, we cannot keep them. We have been able to keep the ones that were fortunate enough to apply to the Civil Service Commission, and were within reach on the register. So we put them on as permanent employees.

I made a proposal in here that I think the committee should adopt. I would like to see it considered. I am going back to my own personal experience at Cherokee. Up until about 4 years ago, we could hire temporary teachers. The reason that we got to hire temporary teachers was that we could not get any ceilings to let us hire any permanent teachers. Under this system, we hired and terminated teachers. We hired them every spring on short-term employment, and extended it through all the year. At the end of the year, if we did not want them back, we just did not hire them back. Most of our real good teachers that we have at Cherokee were hired under that system.

The Bureau already has what is called an "excepted" appointment, and I believe that the local people can do a better job hiring the teachers than somebody in Albuquerque, who have never interviewed the person, or anything else. But I would like to see some kind of system worked out where people, the local school boards, school administrators, could have the prerogative of selecting teaching staff as the vacancies occur, and that type of thing.

But I still think that these people are going to have to have some incentive to work in the Bureau schools. Most of them are so isolated. They have to drive 65 miles to a store, and this type of thing.

We are not in that situation at Cherokee. We are in one of the prime locations in the United States. We are right beside the Smokey Mountains, and it is beautiful down there. But we still cannot get teachers unless we give them some kind of security.

Nobody wants to work on the basis of, "I don't know whether I will be back next year, or not." There is no mention of any retirement system. Most tribes do not have any retirement systems. We put teachers in a situation to where they get the chairman of the council mad, and they could get fired just like that. They have no job security.

Mr. BLOUIN. How does that differ from the school board, the public school board?

Mr. CLEAVELAND. Most teachers have tenure. I am talking about schoolteachers and school principals—they have tenure. After they have been in the system for 3, 2 years, or 5 years, and if your contract is renewed, then you have tenure. It has to be a reasonable cause before dismissal.

I think that everything in this bill can be accomplished through Public Law 93-638. If the provisions under that are followed, the tribes have the option to contract with the schools, if they so desire. They have the option of either retaining the civil service employees, as civil service employees, or as tribal employees with certain civil service rights. Public Law 93-638 gives the tribes an option, if they want to.

If the tribes try it and don't like it, they also have the option under Public Law 93-638 to tell the Bureau, "We don't want it. You take it back." I think that they have more options there than they have under this bill.

Mr. BLOUIN. Let me try to understand what you are saying, because under this bill—obviously, you were sent the reorganization portion of it, and not the basic part of it.

The bill establishes three options very clearly, total and absolute options that are interchangeable on the part of the Indian population itself. It has the option of allowing their children to go to the public school with total control on the part of the Indians, of those dollars that are attracted by the Indian presence which go to the school and total and absolute signoff policy. If the Indian council does not sign off, the moneys do not go to the public schools. The moneys effectively go where the council decides.

If they do not signoff, they have the option of effectively redirecting those moneys to either the BIA school, or a contract school. Not only that, but when they have opted for one under the present law, they are stuck; but under the legislation, they would have the option to retrace their steps. They do not have that total flexibility today.

They would, in effect, in the public school, be in a position to bargain out the kind of program they want within certain parameters, which is something that they do not have any control over today, unless they run into a very friendly public school board, or run into a public school board that happens to be controlled by Indians through the elective process.

Today, they do not have control over those funds. The public schools can say:

> This is the way the program is going to be. You don't have to go there if you don't want to, but this is the way it is.

Under this approach, there is far more flexibility. They can say:

> No, this is not the way that it is going to be, because this is not the program that we want for our children. You have two choices, public school, if you want the dollars. You can either work something out with us where we will all benefit as a result, or we will use the Federal dollars coming into that school. The Federal dollars are absolute cost coverage.

There is a provision in there that keeps the State from withdrawing any basic foundation money they have under their own formula, that would otherwise be going there.

Other than that, we guarantee the total coverage of the cost of education and say: "That money will come if we can work something out in whatever way we can." Unless there is an agreement, unless they can sit down everybody may suffer. I think that it tends to balance the scale a little bit.

It gives them control over BIA schools far more than they have today, short of having to go the contract option, because it does give them a school board that has the power to call the shots, which is something that they do not have today.

You were talking about the things that the advisory boards do in your Agency. I think that is a terrific extension of power that you have given there through agreement. But the law does not require that you have to. You can hear them out, or walk away, if you like. Under present law, you do not have to listen to those advisories. Now, we say, you do, under this overall draft. At least this is the way we want to be headed. If there are some kinks to be ironed out, we certainly want to iron them out.

What it tends to do is to give absolute flexibility, within realistic terms, to Indian tribes themselves to determine what kind of educational input they want to have. I don't see how this comes in conflict with Public Law 93-638. Maybe I have a blind spot.

Mr. **CLEAVELAND**. My opinion is in the context of what I have read in this one page, and it does not give these options in this paper.

Mr. **BLOUIN**. I will ask you to respond in that context.

Mr. **CLEAVELAND**. I would like to answer the part about the public schools and State schools. I don't really think the State schools in the past have the job that they could all have, or have done the job that they should for Indian students.

At Cherokee, the reservation is split between two counties. Up until 10 years ago, the Bureau tried every method that they knew to force the people of Cherokee to send their students to the State schools. They flat said:

> No. We are not going to do it because our reservation is split by two counties, and you are not going to have us split between the school systems. We want a school for our students on this reservation.

The counties themselves never could decide who would run the school, neither wanting to give or take. So about 10 years ago, the decision was made that the thrust should be stopped.

I do not like the terminology, how you allowed this and how you allowed that. I think the Indian tribes, when we are going to basically put the funding level in those BIA schools at that of the State system. What it is in the State is like waving a red flag to the Cherokee. That reservation is in the poorest county in that State. Most of it is located in the third or fourth poorest counties in the State. A lot of the funding in North Carolina is the responsibility of the State.

I think that in education, you should think in terms of what is the best educational program that you can have, and not whether North Carolina is spending enough money on its children. This is the way this bill is being interpreted.

Mr. **BLOUIN**. You are concerned about the bill being interpreted at that level of funding. Is that right?

Mr. **CLEAVELAND**. I am concerned with the Department of Education having responsibility, so that the Cherokee budget will be cut by $500,000. I am concerned about it. The people in Cherokee, N.C., are concerned about it. Every Bureau employee that you talk to about it is concerned about that, if it were not for title I.

Mr. **BLOUIN**. I don't know why they would say that—as a result of this draft?

Mr. **CLEAVELAND**. Not only that, but the funding proposal for the schools by Mr. Demmert, submitted in May in final form. Meetings have been held by Indians throughout the country. If we go back to State funding, most Bureau schools could not operate. The employees work 12 months a year. The salaries in most Bureau schools are higher. If you cut those schools back to what the States get, they are going to fire people.

Mr. **Ingraham.** Mr. Chairman, I am confused, and with all due respect to Mr. Cleaveland, are we giving summaries, or are we opening up for debate?

Mr. **Blouin.** It is my fault. I jumped in, and I should not have. It is just that I was having a tough time following the thoughts.

You did not have the complete package to respond to. The funding package was not there. Maybe we should continue with comments, and then get into the debate.

Let me say, under the basic funding mechanism that we have, there would be as many dollars as it requires to educate that Indian child. That is the basic foundation. It is our concern that States will take this as a clear indication that they can take out their funds. So we put a prohibition in there that they cannot withdraw what would normally come in under their basic foundation program under State, but we will fund beyond that, to whatever it takes to educate. In any event, it cannot be any less than the average per pupil statewide expenditure. This is basic, and it does not count the supplemental programs, title I, title IV, or any of those.

From our standpoint, our job is going to be to try to convince the Congress that this is not going to cost a heck of a lot more. The automatic response is going to be: "How much is this going to cost?" This is an open-ended funding, and our job will be to try to convince them that this is not going to financially ruin the Treasury. It is a question of balance. I think that it is going to cost a few dollars more.

Why don't you finish your comments?

Mr. **Cleaveland.** I think that I have made enough comments.

Mr. **Blouin.** Mrs. Widenhouse?

STATEMENT OF MARY WIDENHOUSE, PRINCIPAL, CHEROKEE ELEMENTARY SCHOOL, CHEROKEE, N.C.

Ms. **Widenhouse.** I find that I am trying to respond to only half of your bill.

Mr. **Blouin.** That part is accurate in the sense that it is the reorganization part. Those are viable concerns that you are raising. Many of those concerns, I think are answered by the first half, and many of those are answered in our mind because we know all the pieces that are missing.

That is the reason that we have the meetings, and we asked you to come here and talk about it. Please don't feel awkward.

Ms. **Widenhouse.** I suddenly felt like I had half cut away, and I did not feel any change.

I want to start off by mentioning to you that I have grown up on the Cherokee Indian Reservation, and after being educated, I came back to Cherokee to teach for about 3 years. That was approximately 20 years ago.

I went to Baltimore, Md., and taught for 14 years before going back to Cherokee to teach. So I feel that maybe I have got an interesting perspective in having been away and seeing the changes that have taken place during those 15 years on the Cherokee Indian Reservation. The changes are really something to be proud of, to see the things that have happened.

I would like to mention just a few before I get into the bill itself, and make some comments there.

The new high school that has been built on the reservation is one of the most beautiful buildings you will find anywhere in the country. It has facilities that many colleges are envious of. The educational program in the elementary school, having a background in public schools, with public school funding, is beset with problems like you couldn't imagine in a big city like Baltimore. It is very refreshing to go home to Cherokee, where you have 725 students, and you feel like you have some control over what could or could not be done in that situation.

One thing that I think shows that the Cherokee is making tremendous progress in the school system is that last year the high school went through the process of becoming accredited through the Association of Colleges and Schools. They will be going into that organization probably at the November meeting. The elementary school is just beginning that process, and I have no doubt that at the end of the process, we will have accomplished that.

The houses on the reservation are much better than they were 15 years ago. If you had been down there, you could not imagine the difference. The roads that are now going back to some of the most remote sections of the reservation are being opened up to allow our students to have access to other areas around. Jobs—we do not have as many as we would like to have, but in that situation, too, you can see a tremendous improvement over the period that we are talking about of 15 years. There is a new hospital that is going to be built, and this is another facility that I think we can be justly proud of.

There is tribal input in every facet of these operations that I am talking about. The tribe leaders from Chief John Crow down to the council members are opposed to the idea of contracting out. They feel on the reservation today that the U.S. Government will use this process of reorganization or the principles of self-determination to divest itself of the responsibility. The Cherokee Indians feel that the U.S. Government has to retain that responsibility.

They have made a lot of progress, but they have not completed that progress to the point that they would like to be. There is a legacy of deprivation there. There has been discrimination in the past.

To give a quick example: I can remember I went through BIA schools until the third grade and my parents found out—they were very poor 25 years ago when I was going through. So I went to public schools, and my friends went to public schools, too. I am seven-sixteenth Cherokee, so I went to public schools and my friend was one-sixteenth more than I was, and she did not get to go.

So you see, these kinds of things are there, part of my generation, part of the feeling that we have. They will continue to be there. My parents, my grandparents, and so forth, they have feelings against the BIA, and they are hostile feelings. If you want me to mention some of those reasons, I certainly can, a little bit later on.

Let us move down to my school, to the Cherokee Elementary School, and look at that for just a minute. One of the things we talked about was the need to fix responsibility in a centralized way. I can certainly see the need for that responsibility. But where and at what levels is this responsibility going to be fixed.

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One area that I can see, that there was no mention made of, is the area of curriculum, the structure which needs to fit a particular area. If you are going to try to do this from a centralized location, it seems to me that you are going to run into several problems. For example, take bilingual education. If you are talking about bilingual education in terms of the Navajos, you are talking about children learning from their native Navajo language, and they want to learn English. When we talk about bilingual education, we are talking about the children speaking English, and they need to speak Cherokee. Can you imagine the problems that would come down if you are not aware of these differences between tribes that have got to be considered.

Mr. BLOUIN. If I may interrupt for just a second. This is one of the reasons we do not get into centralized curriculum at all, because there is no way to put everybody in the same box.

Ms. WIDENHOUSE. I am just going under the assumption of centralizing everything, which needs to be done.

I am very much in favor of accountability. I would like to see us be made accountable. When you use some of the public school funding, we are not going to be able to provide the services for the Indian students that they need.

We have poor motivation in the homes. We have homes without newspapers, without magazines, without encyclopedias. Here we have to go beyond, and do an extra amount of educating, but it is not difficult for us. In North Carolina we do not have those things which are necessary if you are going to do topnotch education. They are not there.

Two wrongs, maybe, do not make a right. One of the things that I would like to mention to you, and this is the problem that I am feeling in my school of low morale among teachers because they don't know what is going to happen to them. Are they going to stay with the civil service? Are they going to be put under another service? If they are going to be put out from under civil service, where are they going to go?

Are they going to be guaranteed their retirement rights and their benefits? When they went into civil service, they went in to serve, but they also went in for No. 1, because they have to look out for their own family and their own well-being as well as to serve.

These are questions that my teachers want to know the answers to. The rumors in my school are becoming academic. What am I going to do? Should I start getting out?

I met a teacher in the hall the other day, and he said: "Please tell Mr. Cleaveland, will he start sending over all of the POB's that come from everywhere else, so that we can begin to look, because we don't want to be caught up in the stream if everybody is going to be washed out of the BIA." This is from a teacher.

Now, how am I supposed to go home and answer these people? I am talking about people who have 15 years, 18 years or more time in civil service. Am I supposed to go home and say to them: "Look, teachers, you be good people, and you see if we can take care of you." I don't think that this is going to keep them from losing sleep at night.

Mr. BLOUIN. There is nothing in our proposal, or any of the proposals that we are involved with, to force anyone who is in civil service out of it. It would protect their rights, if they have built up potential rights. You can assure them that they are not going to get kicked out.

Ms. WIDENHOUSE. But they may be forced to transfer to another place.

Mr. BLOUIN. I don't know what you mean. Do you mean transferred to another school somewhere?

Ms. WIDENHOUSE. They would have to be transferred to some place not in BIA, but some place else. Are you going to guarantee them the right to stay in Cherokee as long as they are doing the job?

Mr. BLOUIN. I would define "doing the job," as something that would be defined by the local school board made up of 100-percent Indians.

Ms. WIDENHOUSE. You are giving the school board the option to say: "Yes, we want you," or "No, we don't want you, and you can get out."

Mr. BLOUIN. Just like every other school board around the country, just like the superintendent of schools would have the right to hire.

Ms. WIDENHOUSE. There are some problems that exist on the reservation, and there is some resentment. Sometimes the teachers get caught in this kind of resentment and animosity, and they might pay for it through their career. That is the danger that I see. These schools are going to be in trouble because the morale is going to be low. The kids in our schools are going to suffer.

Mr. BLOUIN. How do you handle the problem today where the service teachers in BIA come into conflict with the curriculum content?

Ms. WIDENHOUSE. We weather it out.

Mr. BLOUIN. You can weather it out today, or transfer?

Ms. WIDENHOUSE. The teacher stays.

Mr. BLOUIN. That is pretty much the way the tribe wants it?

Ms. WIDENHOUSE. It goes up and down, because you have that free-floating kind of resentment stuff. You don't have one teacher who is the central point of resentment. Now it may be one teacher, and later on it may be another one. We have that kind of situation. That is one problem that lowers the morale as I see it in my school. Right now, let us go on.

In closing, I would like to say, as far as I am concerned, as a principal over a small elementary school, it seems to me that whatever is going on in the classroom is the bottom line. That is really what is going to count. Is that child learning, and is he learning to the best of our ability to teach that child. Is this legislation that you are proposing going to benefit and improve what is going on in the classroom situation?

Mr. BLOUIN. Thank you.

Mr. Heath?

STATEMENT OF DONOVAN HEATH, PRINCIPAL, DILCON SCHOOL, WINSLOW, ARIZ.

Mr. HEATH. Dilcon School is located in the southwestern part of the Navajo Reservation and serves 740 students and their families. I do not want to refer to the entire legislation, but with the explanations that have been given, I am still not sure that the options listed would apply to our school, since it is not near a public school. The people do not want a contract, so our only alternative is BIA. The comments

I have are directed toward the reorganization of the Bureau of Indian Affairs, if that is going to be your option.

The one thing that stands out more than anything else is that the Indian schools are different. I would find it very difficult to find two schools, even on the Navajo Reservation, that are the same as far as the interests of the people in the community, the schools themselves, or even the children that go to that school. This is why the limitation set by options must also be as flexible as possible. In other words, there must be as many options as possible. I don't know how we reach the point where we say that it will true. I think in trying to serve the number of schools that are represented by the Bureau of Indian Affairs, perhaps more time needs to be spent looking at the options that would be offered in any legislation.

My past experience in the dealings that I have had with the Bureau of Indian Affairs for the past 13 years has indicated that there are numerous proposals for change, but so often it is just a shake-up of what exists, and it goes back down with no change in the end, other than providing an extremely upsetting situation of trying to work.

Once the school is organized and operating, the threat of change can, in effect, ruin that school, even in a school that is working with the community. I would like to say right now that the schools that I am familiar with, it is very hard to find a school that is, in effect, working with the community and school cooperating in a joint effort.

At Dilcon, we do work pretty tightly with what the BIA wants, and what the public wants, because the regulations of the BIA are strict. I can give you examples. We are 32 miles from town, vehicles are a problem in our area, I have good bus drivers and anyone of them can fix any vehicle, we do that at our school. However, it is not in their position description, and they are Federal employees. So I am caught between the office of personnel saying, "You can't do that with your employees," and the community saying, "This is what we want." This is the type of conflict that exists at this time. I don't believe that it is to the benefit of anyone.

One of the most serious problems that exists, I think, is the lack of definition of the authority and responsibility within the Bureau of Indian Affairs. As the principal of a school, what I do at that school is determined by what I feel my responsibility is, and not what I have been told it is. However, overall, I do not feel that I am held responsible for anything at that school, other than by the community. Therefore, what I say today is from the community, and not what the Bureau of Indian Affairs would want.

I have listed in my testimony several points that are the desires of the Dilcon community. As the principal of the school, I have to be concerned with these, and I would like to go through them. One concern they have is that funds which are to be earmarked for a school, be spent at that school, and not be transferred from one project to another, at the will of the central agency. This is a very serious problem at this time. Travel funds, construction funds, remodeling funds, anything that is not the trivia that we get for supplies and materials, we have absolutely no control over. If we have $50,000 proposed, if somebody else needs it badly, they will give it to that program. There was a room in the school that was taken by students of the community on the reservation, and $500 was spent on that room, and this was for a home economics room that never existed. I have the staff, but I cannot get $6,000 to set it up. I have no say in the expenditures, and this is a problem for our school. I cannot compete with the rest of them.

Another point is that all schools should be funded through the Agency. This is the feeling of the Navajo people, especially the ones in our community. They do not feel that they are ready to accept direct funding of the schools at this time. I think that it will come, but I think it will be a matter of time.

There is also a feeling that the rules and regulations will deter BIA from working out any change, especially in the area of personnel, and the management, and the basic funds which are not programable. When you put 95 percent of your money into salaries, you cannot play with it. That only gives you 5 percent to work with, and you cannot do that when you have to buy essentials for children. The money that is programable is that money which we never see. It goes to the area, and it is decided at that level. We never see that money.

The community also feels that differences in the schools on the reservation should be reflected not as a condition of whether that school is a BIA school, a public school, or a contract school, but what the interests and participation of that community will be in the school. In other words, it is a local control matter, and one system is no better than the other. It is the local community that will make the school. This is why I think the options have to be there. Those people are going to make their school, that they have all the options possible to operate in, and that they not be given the choice of a limited number.

Often, the people in the community also feel that it is essential that we not move too fast. So often legislation and regulation, and so forth, are do-it-now types of operations. If it is approached this way with the people in our community, they will simply back off from it. They will not make a decision because they are not prepared, they are not given enough time.

Perhaps the one area that I have questions about would be that of giving the local school option of controlling personnel and funds without dropping out completely from BIA operations at this time. In other words, if they elect to stay under BIA at this time, what options do they have to change? If the only option is to go contract, and they are not ready for that, they do not have an option. So I think it is vital that an "in between" situation exist during the reorganization of the BIA, where they are able to take a step at a time, where it is going to be a continual phase-in. There should be an allowance, or a partial phase-in as they assume the responsibility in these areas.

Mr. BLOUIN. May I interrupt you on that point. That is precisely what the bill does. There is no time when they will have to take all those steps.

Mr. HEATH. The concept of direct funding has a bid advantage, because unless the local school and the people in the community can control the finances, and have the funds, they do not control their schools.

At this time, we can talk about the advisory boards, and so forth, but unless they control the funds, they do not control that school. They do not control how the school hires, how many it hires, what services are provided, and how many services are provided, and so forth.

The selection of personnel is secondary to the expending of that fund, if they cannot determine whether they are going to hire a teacher. However, hiring a teacher may not be the answer to the question, because they may not want a teacher. Some type of direct funding is essential at this time.

I have listed two points, and one is, as it has already been mentioned, it is not just to provide a limited number of options which would perhaps shake up the BIA, but would let it settle back into the system that exists now, or even worse. Do not give the Indians options, and then regulations which take those options away. This is so often the case.

The bill can look good now, but by the time the regulations get down to the people, there are no longer options. You have to do this, and you have to do that. This has been the bad experience that I have had with Federal programs, when you are talking about title I, title IV, or any other Federal program. When you get the money, it is just great. "Here is 100 grand, and here are the regulations," and it is what you have to do with it. This is so often the sad part that the Indian people see, and this is why they will often become afraid, as with self-determination, because the regulations can often tie a person into a certain job that they cannot get out of.

We would have a concern about the options that are presented, creating a competition for funds tied on to children going to school. If the choice is public school, BIA, and contract, how exactly will the bill give authority to spend that money to the Indian people, rather than giving an option, and keeping the public schools influenced, and bring on new pressure upon the Indian people to get their children into public school.

We see this on the reservation now, where the public schools will enroll any children they can, so that they will get JOM funds. That is the end of it. They do not follow up on those children. They don't care what happens to those children, but they want the Federal funds. I would also be concerned that public schools not be given the latitude to do this in a competitive way. I think if the parents want their children to go to public school, that is great. Then, they should have the right to make that decision. They should have the authority to make that decision, and not have pressure come in on the other side.

Mr. BLOUIN. Two points. There is a provision in the bill that would give the existing school board, Indian Parent Committee, tribal council, or whatever it ends up, the sole power to determine whether there will be an expanding base of Indian enrollment. It will be up to the public school to comply.

Second, the moneys will not go directly to the Indians, but the sign-off authority will. I guess where it gets weaker is where there is a small population of Indians in that school, where they do not have the financial leverage to dent that school's budget.

Mr. HEATH. Does the bill address itself only to children living on the reservation, or does it include off-reservation children also?

Mr. BLOUIN. On reservation, and near reservation.

Mr. HEATH. Our school is on the reservation, but we have a lot of children that live in border towns that we have responsibility for, either at the Bureau school or in the public school.

These are all the comments I have at this time, thank you.

Mr. BLOUIN. Mr. Smith?

STATEMENT OF ARTHUR L. SMITH, PRINCIPAL, SHONTO BOARDING SCHOOL, SHONTO, ARIZ.

Mr. SMITH. Our school has an enrollment of 1,105, or there was a year or so ago, and there may be a couple more by now.

The proposed reorganization of the Bureau meets with out outstanding approval. We think that it is high time. However, the vertical structuring of the branch of education is nothing new. This has been proposed by veteran educators for a long time, and some of those are retired now. They never expected this to bear fruit. Some of them are very excited by the prospect now.

Mr. BLOUIN. May I interrupt you for a minute. I am going to have to go and vote. However, you can continue, and when you are finished, we can recess until I get back.

Mr. SMITH. So the vertical structure of the branch of education is still under the Bureau of Indian Affairs because we believe that the services provided to the Indian people best come through that organizational setup. In this way, we feel that we can get away from the politics of the agency and of the area, and to a certain extent, of the central office.

At one school, there was an appropriation of $50,000 that had to be taken to another school, and we were in the process of building, and immediately $20,000 of that was yanked. By the start of school, we had to somehow come up with the wherewithal to finish that building without the $20,000. That was an interesting experience.

Of course, vertical structure goes hand in hand with direct funding. I raised the question in my written presentation about the capability of schools to handle direct funding. I am in favor of it. I believe that with direct funding goes accountability, and unless we hold the schools responsible for what they are doing and how they are doing it, we are not going to have quality education.

There are some other factors that come to bear on that, which I would like to touch on a little bit. You will face the problem there, as you go along, of direct funding, because at this point in time, on the Navajo Reservation, not more than five or six schools can handle the direct funding. There is only that limited number of schools that could handle the direct funding, and you are probably aware of that from your visits to the Navajo, and you must have heard about it.

We did enter the struggle with the public schools for our students. Now, we believe that the parents should have the right to say: "We want our children to attend the district as defined for public school purposes, or for BIA purposes," and not have the conflict of necessarily leaving it up to the parents to decide.

We do have to compete for our enrollment, and that, of course, is a little bending of regulations. Perhaps we will get into a little more of this in a while.

The public schools and the BIA schools do need to work very closely together. Their curriculum should be blended so that the student who transfers from one to the other will not be totally lost. This is something that we need to do our home work on.

I would like to say something about Indian preference, since it is mentioned in the bill. Maybe unrestricted as that has been for the last several years, the quality of education and services to the Indian people has suffered. Now, local control and self-determination, and Indian preference are not necessarily compatible. The Shonto Board has got on record as desiring to hire employees without reference to national origin or what-have-you. They would hire the person based on his ability to do the job. They are not interested in whether he is from a certain part of the country or not.

Along with the other factors that are brought into focus with the reorganization, you have the hiring and firing provision in there. The responsibility, I believe, is vested in the director of the school with the school board as the control agent, as in the public school. This is the way we feel it should be, because as hiring is done now, particularly of a professional employee, we do not get the person who can give us or the children the quality, necessarily.

I want to tie something else in with that. The personnel office is an unmitigated disaster zone for providing us with the people we need to do the job that we are supposed to be doing. Right now we are short on teachers with this number of youngsters. You know that to go out and hire someone at this late date, or in November or December, you know what kind of quality you are going to get unless it is an unusual set of circumstances.

I would like to see something spelled out in the way of a construction program. On the Navajo now, the buildings are getting into a sad shape, and I see no program for revitalizing those buildings.

At Shonto, we are busting at the seams, and we have no way to provide additional services that the people desire. We need a high school. We have 100 in the eighth grade right now, and 2 years from now there will be more than 130 per year. How much progressing can be expected to continue?

We would be able to support a high school right now with our students, even though others would come in from outlying areas. But there are no plans. One of these days, it is going to catch up with us, and our elementary schools will be in poor repair, and very expensive to operate. There will be no high school for the kids to attend. Where are they going to go to school?

I did not notice any provision for a contingency fund. Suppose that in the school, a washer is destroyed, or a boiler goes up, or something like that. We need a contingency fund to take care of the emergencies.

Now another point that I would like to belabor is this. At the present time, on the Shonto campus there are over 1,100 students, and with the people who live on campus, and government quarters, we could bring the number up to 2,000.

If I see a safety hazard on that campus, I cannot consult with plant management. I cannot tell them go fix it. If something goes wrong, I want that plant management under the school, because it is not a good situation now. We have had some incidents happen lately to substantiate that conclusion. We would like to have the auxiliary personnel under the direction of the person charged with the responsibility for that school.

Contracting out, generally, is not a solution on the Navajo. There are too many diverse communities and circumstances, and hybrid entities without the work being coordinated. It just does not work. We need the development of a curriculum whereby one student can move from one school to another. Contract schools tend to go their own sweet way, and may be the student gets an education, and maybe he doesn't. I could use some examples on that one.

Generally speaking, the Navajo people do not opt for contract schools. They have gone on record as wanting to keep their BIA schools in our area. I cannot speak for the other area. They go with the BIA school, even to the high school, if they could get one. They want it to be BIA, and they want it to be boarding. Of course, it probably would be a combination of day and boarding. They are on record for wanting these things.

I believe that this very well sums up the points I wanted to emphasize, aside from what appears also in the write-up. One of the things that I would like to call to your attention, Navajo education, as far as funding, should not necessarily be comparable with that of the public school. We think of Indian education as handicap education, and that it should be funded as special education for every youngster there, because they are handicapped by the way they go to school, and the way that they get an education. It should be funded specially, and not along the lines of the public schools, necessarily.

I think that with that, I will close out my comments.

Mr. BLOUIN. Thank you.

I don't exactly know where to start. I have so many questions to get into, and so little time.

First of all, I apologize for not all of you having received the entire draft. The problem was that the first part of it had not been ironed out yet to the point where we could deliver it to anybody for digesting.

But the basic thrust is to establish a foundation plan federally for Indian children, coupled with reorganization. It is going to be followed by a third section that will give the same basic kind of Indian control over supplemental education dollars.

Ideally, the same parent committee, or whatever you want to refer to it as, would replace the various and sundry parent committees that are all over the countryside right now. It would not be in addition to, but it would be in lieu of.

As we envision the bill, the purpose is to give as many options as possible to Indians in terms of self-determination on education that you can think of.

I have heard some of you express the concern about going too fast. One tribe not wanting it, and another tribe wanting it, and so on. The whole idea of what we are trying to piece together is to allow different tribes to move if, and when, they ever want to, as far as they, in their own right, want to move.

I really don't know what options are available beyond BIA contracting and public school money control. I don't know what other kinds of options might be considered. I think that you raised that concern. Do you have something in mind?

Mr. HEATH. I would ask, is there an option to take a part? I would assume that you could contract just a portion of the program, like teacher vacancies as of today, fill those positions without contracting the entire program?

Our staff totals in the neighborhood of 170 people, if we went on contract, we would have to close for a year to organize at the local level because of the paperwork, and the approval that would have to go all the way to Washington to do it.

Is there an option to pick up part of the program?

Mr. BLOUIN. Continue the BIA school, but contract for part of the operation of that school?

Mr. HEATH. To contract the positions as they become vacant over a 10 year period, with a provision that at the end of the 10 years to contract the entire force.

Mr. BLOUIN. As I understand the bill, for the BIA school, it would be an Indian school board that would be in charge of that school, to the extent that they would hire the superintendent of the school, who in turn would hire the faculty. That board would operate like a school board would operate in every respect.

Mr. HEATH. In that respect, it would no longer be the BIA. Some contracts, as I understand it, cannot be a continuation of Civil Service under present rules and regulations. I have a question on this part, in other words.

Is it possible for me, as a principal of a school, to hire a teacher under civil service, or do I still have to go through the register process in 9 months?

Mr. BLOUIN. We establish a whole new process. We require a local listing as well as local hiring, at the local level. As this bill is established, new employees would no longer be civil service. Existing employees would have the option of staying in and having their rights protected, or opting out.

New employees would be handled like any school board handles a contract with their teachers. Their rates would be what they collectively attain within that market.

Mr. HEATH. That answers my question. This is exactly the approach I would find our people wanting to take. I think that it would be very hard to operate, but that is my responsibility to operate it as a principal.

Mr. BLOUIN. I don't know how else you do it without doing a disservice to those who are in civil service.

Mr. HEATH. I think that we have a commitment there that would go both ways. I don't think that it is fair to force the staff to make a decision based on their personal needs, as opposed to their commitment to the education of children they are working with.

One thing that has probably destroyed the BIA more than anything else is the lack of personnel, the actual lack of anybody making a commitment to the education of children. It is just not there. You will probably find more people in the BIA who are committeed to their own personal needs, than any other school system and this is for this reason, that it is a temporary type of situation, because they do not know what is around the corner.

Mr. INGRAHAM. The question I have is, are you envisioning that the agencies become more or less like a public school district, is that what you are saying, so that the local school or the agency school board would actually do the hiring and firing under the supervision of the school superintendent?

Mr. Blouin. Only to the extent that the school board does not hire and fire teachers. The superintendent does that, as I understand. These are the arrangements that we have throughout the country. It is the superintendent who would hire and fire the teachers. The superintendent is responsible to the school board, and he is doing it in the name of the school board. If he does not do it properly, he gets canned.

Mr. Ingraham. The teachers would be hired on a contract system?

Mr. Blouin. A strict contract like every other teacher in the country outside of civil service. They would not be able to leave in the middle of the year, theoretically they would not be able to, as you can have happen now in civil service.

Did I just confuse you?

Mr. Ingraham. I don't understand how a career civil service employee——

Mr. Cleaveland. I am a school superintendent, and the school board says: "You fire Ms. Widenhouse." How do I do it—she is under the Bureau system, she is a career civil service employee. What do I do if the school board says: "We don't want her anymore, you fire her." She is a career civil service employee, but is she one of those new people who have no rights?

Mr. Blouin. At the moment, how would you handle that problem?

Mr. Cleaveland. Right now we try to get them transferred or we try to run them off, if you want us to be honest about it. That is what we do.

Mr. Blouin. You would still have the same approach.

Mr. Cleaveland. Basically, you start documenting. You have to "shape up or ship out."

Mr. Blouin. That is one of the problems with the civil service system in education.

Mr. Cleaveland. I think that something is going to have to be done with the teachers in the schools. We have had one teacher vacancy down there, a band instructor, which has been vacant since June 1976.

Mr. Blouin. Would it be vacant if you could advertise and contract locally?

Mr. Cleaveland. If I was told today to go out and fill it, I would be able to fill it before quitting time this afternoon.

Mr. Blouin. Under our proposal you would be able to do that. If you could avoid the civil service system, you could go down 10 names at a crack. You would not have to mess with any of that.

Mr. Cleaveland. I could fill it. I still think that some provision needs to be made to give the people recruited under this system some kind of retirement. Would the tribes be able to put those people under the retirement systems they now have with insurance companies?

Mr. Blouin. Frankly, you are the first people to raise the fringe benefit question, and it concerns me. I would assume that you would have to work fringe benefits into your school budget as part of your employment costs, as part of your teacher expenses, as any school board does.

You would have to develop a retirement system and salary system just like any school board anywhere in the country. It would more than likely have to be competitive with whatever your local public school has to pay in your area.

Mr. Cleaveland. Even when you have local hire, you still have problems filling vacancies in certain areas. We don't have any problems getting them, the problem is keeping them.

Mr. Blouin. They can transfer within civil service. They can show up the 1st of September, and be gone the 1st of October, and be within the law of the civil service structure in doing that.

Mr. Cleaveland. Pirating teachers is not healthy to anybody. If you have a contract arrangement, the teachers around the country do get out of contracts, but they do not make a practice of it. It is pretty hard to get back into it, if you have done it a lot.

Mr. Blouin. You are more likely to have those vacancies filled, and filled for the length of the school year——

Mr. Cleaveland. Now the practice that occurs is that the civil service employees will quit 2 days before school starts.

Mr. Blouin. Under the normal contract process, you don't have that problem, at least not quite that prevalent.

Ms. Widenhouse. If the tribe is to take responsibility where the fringe benefits would go back into the school budget, North Carolina now is getting a tenure law. Does there have to be a tenure law worked out here?

Mr. Blouin. There would not have to be.

Ms. Widenhouse. There again you would go back into problems of not being able to go back in.

Mr. Blouin. You would have that same problem under the present system. If the teaching structure became more appealing under the public school system than it does under the civil service system, then you would have the same problem there, too. You are always going to have the competing interest problem, in terms of keeping competent faculty.

Ms. Widenhouse. Right now, you cannot get any local faculty under civil service. It is very, very hard to beat the local faculty. They are very valuable, and you just cannot get them.

Mr. Heath. Do I understand that under the bill, then we would be responsible for setting up similar procedures for our schools, under the reorganization of the Bureau of Indian Affairs, and our salaries would have to be comparable from Cherokee, to Navajo, to Alaska?

Mr. Blouin. That is not our intent, I understand.

Mr. Heath. That is the way that I understood it.

The central office will be held responsible for establishing those procedures, and so forth.

Mr. Blouin. Do you have a page?

Mr. Heath. I believe that it is page 20. "The Office shall develop and submit to the field offices and agencies of the Bureau and the appropriate committees of the Congress a draft set of education policies, procedures and practices for education—related actions of the Bureau. The Director of the Office shall, within one year after the enactment of this Act, provide that such uniform policies and procedures * * *" This is what I am afraid of.

Are we going back to the same thing where the central office is going to be telling the local schools what they can do under the reorganization?

Mr. Blouin. That is where your concern is coming from? You folks from North Carolina, you are concerned about the monolithic approach that is coming out of that section?

Mr. SMITH. Yes, it would be all of our concern.

Mr. BLOUIN. It is not our intent. I appreciate your raising that.

Mr. INGRAHAM. The Navaho area would set up its own system of contracting is own personnel. That is the intent of the bill?

Mr. BLOUIN. Yes.

Mr. INGRAHAM. It does sound like it has to be uniform from coast to coast.

Mr. HEATH. It would be my concern, insofar as the authors of the bill are concerned, exactly what level are you directing your organization. Are we transferring from Washington to a tribe, which in the case of the Navajo is still too big, or are we talking about a local school or an agency?

Mr. BLOUIN. What we would like to do is have the local school board elected by the Indian population served by that local school board, except where Indian tribal constitutions mandate that that power rests with the tribal council, in which case they would delegate it to——

Mr. HEATH. So your tribal government would still be your entity beyond which the local school would be answerable.

Mr. BLOUIN. Where the provision exists in constitutional government at the tribal level. We have an obligation to respect that. I don't think that there is any way around it.

Mr. QUIE. Would it fit with your local district size, do you have a number of schools?

Mr. HEATH. What I am afraid of, on the Navajo, at the present time there is a conflict that exists between the local school operators and the tribal council which has, in effect, a division of education. There are three organizations at the present time. It is being battled around who exactly is responsible for education.

I am wondering how this bill is going to be sent down there, and who is going to grab it at that level. It might still not get down to the local level.

Mr. BLOUIN. Let me throw it back at you. Where do you think it ought to be?

Mr. HEATH. It has to be at the local council level.

Mr. CLEAVELAND. I still have a question on page 17, 15(a). You are talking about Indian controlled contract schools and Bureau schools. There we say that new employees shall not be deemed employees or officers of the United States for purposes of chapter 51 or of subchapter III of chapter 53 of title 5, United States Code, and so on.

On line 19, it says that such employees of said schools should have the rights set forth in section 105(e) of the Indian Self-Determination Act.

As I read section 105(e), it is the section where the tribes have the prerogative to negotiate with the present Bureau for retention of certain civil service rights.

Now, if that terminology is continued, will there be any civil service employees left in the schools?

Mr. BLOUIN. They will have an option, as I understand the provision, to pull out of the civil service and go to the contract route, in which case they would have their rights protected. If they choose not to, they would be able to stay under civil service.

Mr. CLEAVELAND. The choice will be with the employee or the tribe?

Mr. **Blouin**. With the employees. There will be no new civil service employees. We are talking about those that are there now.

Mr. **Ingraham**. Eventually, all the teachers will be contracted.

Mr. **Blouin**. Eventually, yes.

Mr. **Ingraham**. The new employees would be contract employees.

Mr. **Cleaveland**. When a vacancy occurs, that position goes under tribal employee position. It would be contracted with the tribe.

Mr. **Blouin**. We would abolish the future coverage of the BIA teacher personnel as Civil Service employees. We would grandfather those that are there now, and recognize that they have certain rights, wage protection, and so on. We would try to protect those rights.

It would be a lot simpler to say, from this day forward, you are no longer civil service, and everybody is treated the same way, but you would really have a massive problem. I think that you would have a few losses on your hands.

Therefore, we give them the option, which is meant to protect their rights. We give them the option of getting out, as they can today under section 105(e) of the Self-Determination Act, or to stay in civil service for as long as they are employees of BIA. This is an approach that is flexible.

Mr. **Cleaveland**. I understand it now, but I did not understand it when I read it, because section 105(e) of the Self-Determination Act gave the tribes the prerogative as to what they want after they contract with a group, whether they wanted to keep those employees or not.

Mr. **Ingraham**. You have been reading my comments?

Mr. **Blouin**. Counsel points out that in that section, line 19 states, "Existing employees of such schools shall have the rights set forth in section 105(e)." It does not say that they have to come in compliance with that section, but they have the rights set forth in that section.

Mr. **Cleaveland**. Section 105(e) talks about how the tribe can negotiate a contract whereby they will pay the retirement benefits for the employees.

Mr. **Lovesee**. I apologize if it led to a misconception. What we meant by "the rights as set forth in section 105(e)," if they contract they get the rights such as health, accident, retirement benefits, etc. So it was used as a legislative tool to guarantee those rights to the employees.

If they decide to go contract, they will have those rights. They can stay as civil service employees, unless they want to go contract and perhaps get more money. If they go contract, the things that they have accumulated during their Civil Service tenure, would be grandfathered to them. We used this provision to do that.

Mr. **Ingraham**. The contract would be with the tribe and not the individual.

Mr. **Cleaveland**. If we hire people under temporary appointment, and we decide that we don't want them, we can say: "Sorry, but we don't want you," and you can terminate them tomorrow. We don't have that authority now.

Mr. **Blouin**. As we understand it here they would be permitted transfer rights in addition to the other rights, all of their benefits, retirement, and so on, that they have accumulated under civil service would transfer over.

When they choose transfer under the contract process today, tenure does not carry over there either. They can be dismissed there for cause. That same dismissal process would transfer as well.

I think that you have raised a good point, and this section absolutely needs clarification.

Mr. CLEAVELAND. Let us say that next year the tribe decides, we are going to contract that school. When that school is contracted, what happens to the teachers in that school?

Mr. QUIE. What happens right now?

Mr. BLOUIN. Why don't you have counsel work with you on the timetable on this thing, because it is a pretty decent timetable. Many things have to transpire before they can make the transition.

Mr. CLEAVELAND. More explicitly, what happens to those teachers that the tribe says, "We don't want them in this school?"

Mr. BLOUIN. What happens now?

Mr. CLEAVELAND. You go to the agency, the Bureau, and this type of thing.

Mr. QUIE. Right now, if they go contract, the teachers do not have civil service protection. They work for the tribe. Do they terminate them like that, and it is the end of their career?

Mr. BLOUIN. As I understand the process today, when a tribe opts to contract the school, with that goes the rights to hire the faculty, et cetera, outside of civil service.

Mr. CLEAVELAND. Under 638 they can keep the employees under their jurisdiction. Today, if a school is contracted, you have to start the change, and this type of thing. You constantly get changes of employees, who want to transfer and this type of thing. What happens to them under this bill?

Mr. QUIE. I know what we are talking about, it is the same thing as if you have the situation any place else. What happens to civil service employees if they want to retain civil service employment some place, and if I recall correctly, if they stay within the same agency, then they have bumping rights. If they go to another agency, the Civil Service Commission works out bumping rights.

So all the schools would be, in effect, becoming like contract schools, I assume, but there would not be any place left for them to stay within BIA appointment as a teacher. They would have to go some place else.

Ms. WIDENHOUSE. Then we would have to go to the Job Corps?

Mr. BLOUIN. They would have preference if a vacancy occurred.

Mr. CLEAVELAND. One of the concerns of our staff is whether they are Indian or non-Indian, they will be forced to work for the tribe. Very few people in our agency want to work for the tribe. Therefore, if the school goes tribal under this proposal, what is going to happen to me? Can I transfer to Alaska, can I transfer to the prisons, or what-have-you?

There seems to be no clear cut answer, and the rumors are bounding all over the place.

Ms. WIDENHOUSE. The kids in the classrooms are being hurt, and that what is bad.

Mr. BLOUIN. I don't know how you can solve this. You are always going to have those problems.

Ms. WIDENHOUSE. Even here among us, there are five different interpretations of what is going to happen. I think that you ought to clarify what you intend to do.

Mr. **Quie**. I think that we ought to walk through this, and put in the report exactly what the employees could expect. We will make very clear, step-by-step how we will do it. Right now, I assume that any school, any tribe, is going to go through the process of deciding whether to contract, and the employees must be wondering, what is going to happen to them. Now it is just more widespread in one area.

Mr. **Blouin**. You make a good point.

Mr. **Heath**. I have a point that needs clarification. When we talk about BIA contracts, it is understood that all schools would have the option to contract, but no school would have the option to stay the way it is?

Mr. **Blouin**. Do you mean the authority structure?

Mr. **Heath**. We have a structure here under the reorganization if that goes through, then if the school wants to contract with that organization, they can do it?

Mr. **Quie**. The tribe does not have to take them over.

Mr. **Heath**. This bill would not affect me, I would still be BIA, civil service?

Mr. **Blouin**. They would remain a BIA school, but there would be an Indian School Board that would serve as a director of schools.

Mr. **Heath**. If they want to stay with BIA at all, they must contract with the BIA?

Mr. **Lovesee**. Excuse me. I see what you are driving at.

One of the things that I am getting here, and it is good because this is going to tell us what your interpretation is. This does not force anybody to go contract. The school board would gain control over the budget and would gain control over the personnel. But it is still a BIA school.

Mr. **Ingraham**. You are talking about direct funding?

Mr. **Lovesee**. They would gain control over the money, and they would gain control over the personnel. It would still be a BIA school, and you would still have the superintendent there. The personnel would be under contract, but it would be a contract with the Bureau. It would bypass all the civil service malarkey, and everything.

Mr. **Heath**. It is understood that this is the only option dealing with the BIA.

Mr. **Lovesee**. Yes.

Mr. **Heath**. We could not operate the way we are. The personnel office would have to be changed, the way the bill reads?

Mr. **Lovesee**. Yes.

Mr. **Heath**. Then I have a question.

Mr. **Blouin**. Congressman Quie and I are going to have to go vote. At this moment it would be most beneficial to you folks if you could throw questions back and forth with the staff in terms of the interpretation of various sections of the bill, and comments. We could adjourn the meeting at this point, and the staff will stay here as long as you need to get your points clarified and so on. I think that you have all made some very good suggestions, so far.

With these hearings, and hearings in the future, we will try to come up with a bill that will actually make Indian education better, and not more complicated, and not more unworkable. If it does not do that, we do not want any part of it.

At this point, we will adjourn the subcommittee meeting, and you can continue your questioning and answers.

[Whereupon, at 3 p.m., the subcommittee adjourned, to reconvene, Friday, September 30, 1977, at 8:30 a.m.]

[Material submitted for inclusion in the record follows:]

(DISCUSSION DRAFT)

95th Congress
1st Session

A BILL

To provide for the basic education of Indian children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Indian Basic Education Act".

Amendment to Public Law 874, Eighty-first Congress

Sec. 2. Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 3 of the Act entitled "An Act to provide financial assistance for local educational agencies in areas affected by Federal activities, and for other purposes" (Public Law 874, Eighty-first Congress; 20 U.S.C. 238) approved September 30, 1950, is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following:

"Payments for Indian Children

"(f)(1) In lieu of that portion of payments authorized by section 3(a)(1)(A) which is attributable to Indian children determined for purposes of this section, the Commissioner shall, subject to paragraph (2), make a payment for each fiscal year to each local educational agency which is located on or in close proximity to an Indian reservation in an amount equal to the product of the average per pupil expenditure of such agency for such year multiplied by the number of Indian children who--

"(A) were in average daily attendance at the schools of such agency,

"(B) resided on Federal trust property, and

"(C) were provided a free public education by such agency during such year.

"(2)(A) Payments under this subsection shall be made only to local educational agencies which have submitted, within one year after the date of the enactment of the Indian Basic Education Act, a program of basic education for Indian students which has been approved in accordance with subparagraph (B), and which operate such program.

"(B) The Commissioner shall approve any program of basic education for Indian students submitted by a local educational agency eligible under paragraph (1) only if such program--

"(i) provides education for Indian children which is not less than the standard education program of the State and the school district in which the agency is located for students of the same age and grade level,

"(ii) provides those educational programs and services designed to meet the special needs of Indian children, which may be other than those satisfied by the standard education program of the State and the school district in which the agency is located,

"(iii) provides such auxiliary services as the Commissioner determines to be necessary, including transportation, counseling, and health care, which are at least equivalent to those provided to non-Indian children by the State and the school district in which the agency is located,

"(iv) provides, in a manner to be determined by regulation, for active solicitation by the agency of the views of the Indian community to be served by the program with respect to the needs of the Indian students to be served, and "(v) is formulated with the participation of each tribal council (or designated representative of such council) of any Indian tribe whose children are to be served by the program, and has not been formally rejected by any such council or designee.

"(C) The Commissioner shall make payments under this subsection only upon an application therefor at such time and in such manner as the Commissioner shall by regulation require, which--

"(i) provides assurances that any extension of the geographical area or student population served by any school district of the local educational agency into areas where Indian students were previously served by a Bureau of Indian Affairs school shall be made only with the approval of the governing body of each Indian tribe which will be affected by such extension, and "(ii) is made by (I) a school board (or its legal equivalent) all the members of which are Indians, or (II) in cases where only one Indian tribe is involved, is signed by the entity designated by the tribal council of such tribe for this purpose, or, in cases where more than one such tribe is affected, has been, under regulations of the Commissioner in consultation with the Assistant Secretary for the Bureau of Indian Affairs, adequately considered and influenced by those tribes.

"(D) The Commissioner in consultation with the Assistant Secretary for the Bureau of Indian Affairs shall by regulation establish such procedures as the Commissioner determines to be adequate in order to provide each tribal council of an Indian tribe whose children are served by a program approved under subparagraph (B) with reasonable opportunities for the evaluation of such program.

"(E) The Commissioner shall carry out a program of evaluation of any program approved under subparagraph (B), and shall report the results of such evaluation to the Congress as a part of the annual evaluation report under section 417 of the General Education Provisions Act.

"(F) In those instances where the tribe or tribes to be served by the public school shall formally reject the education plan adopted by such school, the Commissioner shall--

"(i) within a reasonable time to be established by regulation, require the parties involved to submit to him, in writing, statements of their respective positions,

"(ii) within a reasonable time (to be established by regulation) after receipt of these statements, attempt to negotiate a program agreeable to both parties, and

"(iii) in instances where the education of Indian students would be adversely affected, allow the local public school to receive funds for the education of the Indian students in a program which meets the requirements of subparagraph (B)(i).

"(G) If no negotiated plan is adopted within a reasonable time (to be established by regulation) after such negotiations begin, the Indian tribe or tribes concerned may, at their option, elect to--

"(i) have such educational services provided by a school operated by the Bureau of Indian Affairs, or

"(ii) operate a school for their own students under the provisions of the Indian Education Assistance Act, in contract with the Bureau of Indian Affairs.

"(H)(i) In those instances where the tribe or tribes affected exercise their option under subparagraph (G)(ii), the tribe or tribes affected shall notify, in writing, the Bureau of Indian Affairs immediately of their intention to so contract. A contract under this authority shall be let for the fiscal year beginning no less than one year after the date of notification. The Bureau of Indian Affairs shall, by special itemed justification, request the necessary funds to be appropriated by the Congress. Such funds contracted for and requested from Congress shall be no less than the amount which would be transmitted to a local educational agency under this subsection for the education of the same group of Indian students.

"(ii) There are hereby authorized to be appropriated such sums as may be necessary for any fiscal year for contracts in accordance with subparagraph (G)(ii) and this subparagraph.

"(iii) Nothing in this subparagraph or subparagraph (G)(ii) shall be deemed to preclude any tribe or tribes which have exercised the option under subparagraph (G)(ii) from thereafter electing to return their students to the local educational agency."

State Responsibility

Sec. 3. Nothing in this Act, which is based upon the special relationship between the United States and Indian Nations, shall be deemed to relieve any State of any duty with respect to citizens of that State.

Standards for the Basic Education of Indian Children in Bureau of Indian Affairs Schools

Sec. 4. (a) The Assistant Secretary for the Bureau of Indian Affairs, in consultation with the Assistant Secretary, shall, through the National Institute of Education and National Center for Education Statistics and in consultation with the Office of Indian Education Programs of the Bureau of Indian Affairs, carry out such studies and surveys as are necessary to establish standards for the basic education of Indian children living on or in close proximity to Indian reservations and establish a set of such standards. Such standards shall apply to schools of the Bureau of Indian Affairs, and may also serve as a model for education programs for Indian children in public schools.

(b) Such studies and surveys shall be conducted in such a manner as to provide an opportunity for organizations concerned with Indian interests to participate therein, shall take into account such factors as the academic needs of such Indian children, local cultural differences characterizing such children, the type and level of language skills of such children, the geographical isolation of such children, and appropriate teacher student ratios for such children, and shall be directed toward the attainment of educational opportunity for such children.

(c) Within one year after the date of issuance of the standards for the basic education of Indian children established under subsection (a), the Bureau of Indian Affairs shall implement such standards in all schools operated by the Bureau and in all Indian-controlled schools under contract with the Bureau.

(d) There are hereby authorized to be appropriated such sums as may be necessary for academic program costs (other than support costs such as transportation, fuel, capital and home living costs), in order to bring the schools referred to in subsection (a) up to the level required by the standards for the basic education of Indian children as required by subsection (c). The Bureau of Indian Affairs is directed to make appropriate requests to the Congress for appropriations under this subsection.

(e) The head of the Bureau of Indian Affairs may alter the standards for the basic education of Indian children established under subsection (a) as he deems appropriate, in order to take into account the needs of individual tribes as expressed through the governing bodies of those tribes in cases where the academic standards are not lower than those established under subsection (a).

National Criteria for Dormitory Situations

Sec. 5. (a) The Assistant Secretary of the Bureau of Indian Affairs, in consultation with the Office of Indian Education Programs of the Bureau of Indian Affairs, through the National Institute of Education or by contract, shall, within one year after the date of enactment of this Act, conduct a comparative study of the costs applicable to boarding arrangements for Indian students provided directly by the Bureau of Indian Affairs and provided under contract with the Bureau, and shall establish, based on the results of such study, national criteria for such dormitory situations. Such criteria shall include requirements as to adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

(b) Within one year after the date of issuance of the national criteria under subsection (a), the Bureau of Indian Affairs shall implement such criteria. The Bureau of Indian Affairs shall bring all schools, dormitories, and other facilities operated by the Bureau in connection with the education of Indian children into compliance with all applicable Federal or State health and safety standards, whichever provide greater protection, and with section 504 of the Education of All Handicapped Children Act.

Authorization of Appropriations

Sec. 6. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out section 4, and the Bureau of Indian Affairs is directed to make appropriate requests to the Congress for appropriations under this subsection.

(b) Up to 1,000,000 of the sums appropriated under the Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes", approved November 2, 1921 (42 Stat. 208; 25 U.S.C. 13; commonly referred to as the "Snyder Act") for any fiscal year may be used to carry out the studies conducted under section 4(a) and section 6.

Indian Elementary and Secondary School Assistance Act

Sec. 7. Notwithstanding any other provision of law, any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for purposes of section 303 of the Indian Elementary and Secondary School Assistance Act (Title III of Public Law 874, Eighty-first Congress) if each such school, as determined by the Commissioner, operated by that tribe provides its students an educational program which meets the standards for the basic education of Indian children established under section 6 or is a school operated under contract by that tribe in accordance with the provisions of section 3(f)(2)(G)(ii) of Public Law 874, Eighty-first Congress.

Regulations

Sec. 8. The Commissioner shall establish such regulations as may be necessary to carry out the amendment made by section 2 within 9 months after the date of the enactment of this Act.

Definitions

Sec. 9. For purposes of this Act:

(1) The term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education.

(2) The term "average per pupil expenditure" means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in the State divided by the aggregate number of children in average daily attendance for whom such State provided free public education during such second preceding fiscal year.

(3) The term "Commissioner" means the Commissioner of Education.

(4) The term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education.

[ROUGH DISCUSSION DRAFT]

95th Congress
1st Session

A BILL

To reorganize the operations of the Bureau of Indian Affairs for the purpose of improving Indian educational services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the functions of the Bureau of Indian Affairs (hereinafter in this Act referred to as the "Bureau") with respect to the direction, supervision, and expenditure of Federal funds for the purpose of education are hereby transferred to and vested in the Office of Indian Education Programs of the Bureau (hereinafter in this Act referred to as the "Office") and the exercise of such functions shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding.

(b) The Secretary of the Interior shall transfer from the Bureau to the Office the personnel, assets, liabilities, contracts, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available in connection with the functions transferred by subsection (a). Personnel shall be transferred in accordance with applicable laws and regulations relating to transfer of functions and without reduction in classification or compensation for one year after such transfer.

(c) The Director of the Office shall direct and supervise the operations of all personnel within the Bureau who are directly involved in education functions, whether or not such personnel are located within the Office or in another division of the Bureau. Area offices of the Bureau shall not exercise any functions with respect to matters directly involving Indian education, except that education personnel located in such area offices, who are under the direction and supervision of the Director of the Office in accordance with the preceding sentence, shall provide necessary technical assistance to schools assisted by the funds described in subsection (a) and shall coordinate the education functions of the Office with other services provided by the Bureau.

(d) Education personnel located in agencies under the Bureau, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (a), shall monitor and evaluate education programs assisted by the funds described in subsection (a), and shall provide assistance in connection with personnel actions relating to such programs, and technical and coordinating assistance in such areas as procurement, contracting, and budgeting which are related to such programs, except that, in the case of boarding schools operated by the Bureau off reservations, education personnel located in area offices of the Bureau shall, if the Director of the Office so determines, provide such services, under the direction and supervision of the Director of the Office.

Implementation of Transfer

Sec. 2. Within six months after the date of the enactment of this Act, the Assistant Secretary of the Bureau shall, after consultation with the Director of the Office and such other personnel of the Bureau as are appropriate, establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made by the first section of this Act, and shall establish permanent channels of contact between the Director of the Office and the heads of other divisions within the Bureau, for the purpose of achieving such transfer with a minimum disruption of services and ensuring that the Office receives all support services required to carry out the functions so transferred to the Office.

Allotment Formula

Sec. 3. (a) The Director of the Office shall establish by regulation adopted in accordance with section a formula for determining the minimum allotment necessary to sustain each Bureau or Indian-controlled contract school. Such formula shall take into consideration, but not be limited to considering, the following factors:

(1) number of Indian students served and size of the school;

(2) special cost factors, such as--

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs, including any need for special counseling services; and

(C) food and dormitory costs; and

(3) the cost of providing academic services (determined by criteria referenced testing) which are equivalent to those provided by public schools in the State in which the school is located.

(b) Notwithstanding any other provision of law, Federal funds administered by the Bureau used to assist Bureau and Indian-controlled contract schools shall be allotted in accordance with the formula established under subsection (a), except that, in the case any such school which is located in a school district of a local educational agency which receives from Federal funds an average payment per Indian child attending public school in that district which is higher than the amount which would be received by such Bureau or Indian-controlled contract school under such formula for each Indian child attending that school, the payment to be received by that school for each such child shall be equal to such average payment for an Indian child in public school in that district.

Uniform Direct Funding and Support

Sec. 4. (a)(1) Within six months after the date of enactment of this Act, the Office shall establish by regulation adopted in accordance with section 13 a system for the direct funding and support of all Bureau schools and all Indian-controlled contract schools. Such system shall allot funds, in accordance with section 3(b), and shall provide each affected school with notification of its approximate allotment not less than three months prior to the beginning of the fiscal year for which the allotment is to be made. Such system shall so allot funds on the basis of local school budgets which shall be prepared by local school administrators, and the local school board for each school shall have the authority to ratify or reject such budget, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such budget to meet needs not foreseen at the time of preparation of the budget. Each budget prepared for an Indian-controlled contract school shall be prepared in such a manner as to ensure local participation.

(2) The authority of the local school board under paragraph (1) shall not apply in cases where the tribe affected (or, in the case of a school serving several tribes, all the affected tribes), by formal action of tribal governing body, so determines. In the case of such a determination, the Assistant Secretary of the Bureau shall investigate the causes of such determination and take such steps as may be necessary to remedy such causes.

(b) Funds to which the Indian Self-Determination Act applies shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan agreed to by the tribe or tribes affected and the Bureau, under which control of education programs will be transferred to such tribe or tribes within a specific period of time negotiated under such agreement.

(c) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Director of the Office, and the Director shall, to the extent possible, provide such services, and make appropriate provision in the budget of the Office for such services.

Policy for Indian Control of Indian Education

Sec. 5. It shall be the policy of the Bureau in carrying out the functions of the Bureau to foster Indian control of Indian affairs in all matters relating to education.

Education Personnel

Sec. 6. (a) New employees hired after the date of enactment of this Act by Indian-controlled contract schools and Bureau schools shall not be deemed employees or officers of the United States for purposes of chapter 51 or of subchapter III of chapter 53 of title 5, United States Code," nor shall either existing or new employees be deemed officers or employees of the United States for the purposes of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). Existing employees of such schools shall have the rights set forth in section 105(e) of the Indian Self-Determination Act.

(b) The Assistant Secretary of the Bureau shall establish regulations applicable to education personnel of Bureau schools and Indian-controlled contract schools under which teacher qualifications shall be set forth, lists of applicants for positions shall be maintained at local, area, and national levels (but listing thereon shall not be a prerequisite to the local hiring of any qualified individual), and hiring of education personnel at the most local level consistent with good management policy, except that--

(1) all teachers and school personnel shall be hired by the supervisor of the school at which they will serve,

(2) all school supervisors shall be hired by the superintendent for education of the appropriate agency office under the Bureau, and

(3) all education personnel of an agency under the Bureau shall be hired by the superintendent for education of the appropriate agency under the Bureau.

(c) In the case of any hiring any personnel described in clauses (1) and (2) of subsection (b), the local school board affected shall be consulted and the determination of such board shall be binding, unless appealed by the Bureau to the Director of the Office. In the case of any hiring of any personnel described in clause (3) of such subsection, the local school board of the agency under the Bureau shall be consulted and its determination shall be binding, unless appealed by the Director of the Office to the Assistant Secretary of the Bureau.

(d) Notwithstanding any provision of law, the local Indian school board shall have the authority to waive any preference of Indians for appointment to employment in positions related to Indian affairs which is required by law.

(e) The supervisor of each Bureau school may terminate for cause (as determined under regulations of the Assistant Secretary of the Bureau) the employment of any employee of such school, and shall immediately notify the local school board of such school of any such action. The local school board of such school may appeal such termination to the superintendent for education of the appropriate agency under the Bureau and to the Director of the Office.

Management Information System

Sec. 7. (a) The Secretary of the Interior shall establish within the Bureau, within one year after the date of the enactment of this Act, a modern computerized management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include:

(1) student enrollment;

(2) curriculum;

(3) staff;

(4) facilities; and

(5) community demographics.

(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

Bureau Education Policies

Sec. 8. Within 180 days after the date of the enactment of this Act, the Office shall develop and submit to the field offices and agencies of the Bureau and the appropriate Committees of the Congress a draft set of education policies, procedures, and practices for education-related actions of the Bureau. The Director of the Office shall, within one year after the enactment of this Act, provide that such uniform policies and procedures shall be finalized and promulgated. Thereafter, such policies and procedures shall serve as the foundation for future Bureau actions in education.

Uniform Education Regulations and Procedures

Sec. 9. The Assistant Secretary of the Bureau shall cause the various divisions of the Bureau to formulate uniform regulations, procedures, and practices with respect to such of the concerns of those divisions as relate to education.

Recruitment of Indian Educators

Sec. 10. The Assistant Secretary of the Bureau shall cause to be instituted within the Office a vigorous recruitment policy with respect to qualified Indian educators and a detailed plan to promote employees from within. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

Annual Report

Sec. 11. The Assistant Secretary of the Bureau shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control.

Effect on Bureau Funding

Sec. 12. Nothing in this Act shall be interpreted to deny the Bureau funding from any present source.

Regulations

Sec. 13. Regulations required to be adopted in accordance with this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

General Authorization

Sec. 14. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act (other than section 7).

Definition

Sec. 15. For purposes of this Act, the term "local school board", when used with respect to a Bureau school, means the advisory school board of that Bureau school.

INDIAN EDUCATION—OVERSIGHT

Part III: Bureau of Indian Affairs—Reorganization

FRIDAY, SEPTEMBER 30, 1977

House of Representatives,
Subcommittee on Elementary, Secondary,
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 9 a.m., in room 2261, Rayburn House Office Building, Hon. Ronald M. Mottl presiding.

Members present: Representatives Kildee, Mottl, Quie, and Pressler.

Staff present: Alan Lovesee, counsel; John Forkenbrock, staff director; and Scherri Tucker, assistant clerk.

Mr. Mottl. The subcommittee will now come to order.

This is a hearing of the Subcommittee on Elementary, Secondary, and Vocational Education of the Committee on Education and Labor in conjunction with the Advisory Study Group on Indian Education.

Today, we will continue our discussion of sections of H.R. 9157 which shifts responsibility for education within the Bureau of Indian Affairs. This is our fourth day of hearings on this legislation, and perhaps the most important.

Today, we are pleased and honored to have with us representatives of several of the national Indian organizations, and a representative of the Navajo Tribe. Since these are representatives of the people most directly affected by this legislation, we are grateful for their input.

Let me first introduce the panel, if I may. Ms. Patricia Locke, president, National Indian Education Association; Ms. Georgianna Tiger, National Congress of American Indians; Mr. Charles Trimble, executive director, National Congress of American Indians; Mr. Michael Gross, counsel to the Coalition of Indian Controlled School Boards; Ms. Betty Gress, acting director, Coalition of Indian Controlled School Boards; Calvin Isaac, tribal chief of the Mississippi Band of Choctaw Indians, representing the National Tribal Chairman's Association, and Ms. Frances Ayer, attorney, National Tribal Chairman's Association; and Daniel Peaches, representing the Navajo Nation.

If you would all come forward as a panel here. Your written testimony will be entered into the record. Please feel free to summarize the high points in your opening remarks.

First of all, we will hear from Ms. Patricia Locke.

[The prepared statement of Ms. Locke follows:]

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PREPARED TESTIMONY OF PATRICIA LOCKE, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

The Advisory Study Group on Indian Education has demonstrated by its legislative intent great concern for the education of Indian children. We at the National Indian Education Association appreciate the work of the Study Group to assure basic support for the schools.

The National Indian Education Association (NIEA) recognizes that the Bureau of Indian Affairs - Department of the Interior (BIA-DOI) has the legal responsibility and historic authority to meet the commitments established by treaties and thus to assume the basic responsibility for the education of the American Indian Tribes.

How this responsibility is carried out is now well understood by Indian people since the passage of the Indian Self-Determination and Education Assistance Act.

On June 2, 1977 the NIEA Board of Directors determined Association policy to be that all legislation pertaining to Indian education should contain language that funding should go directly to the tribal governments. As we read HR 9157, it does not appear that a direct funding process to tribal governments would occur consistently in both major parts of the bill.

We would very much appreciate an opportunity for our full Board of Directors to study this legislation prior to more detailed comment. Members of the NIEA Executive Board did not receive copies of this bill until the first part of this week. Our full Board has not read the bill. Before I can speak for the National Indian Education Association they must be consulted.

It is also our organization's concern that we work closely on critical education issues with the two major tribal organizations, the National Congress of American Indians and the National Tribal Chairmen's Association.

We must frankly admit that members of the NIEA Executive Board do not understand why H.R. 9157 combines both an amendment to P.L. 874 and a reorganization plan for the Bureau of Indian Affairs' Office of Indian Education Programs. Is there an intent implied for an omnibus bill for Indian education within the BIA? Why should the education services of the BIA be pulled out and legislated for separately from the rest of the BIA?

On September 9 and 12 during confirmation hearings at the Senate Select Committee on Indian Affairs, Forrest Gerard, the nominee for Assistant Secretary for Indian Affairs, stated that he would be gearing up for a major reorganization within the Bureau of Indian Affairs. The NIEA has respect for the conscientiousness and proven abilities of Mr. Gerard in the field of Indian education. We will be providing him with advice relating to coordination of educational functions with respect to personnel within the Office of Indian Education and in other education related divisions of the BIA.

We feel strongly that Mr. Gerard's soon to be convened Task Force on BIA reorganization must be given the time to deliberate. We as tribal members consider this both a courtesy and a necessity. Mr. Gerard has promised full consultation with the tribes. We urge you to delay action on the reorganization portion of the bill until such time as Mr. Gerard's reorganization efforts can be sufficiently evaluated.

NIEA would like to share with the Study Group some of our concerns that H.R. 9157 has brought into focus and that we will also share with the Assistant Secretary's Task Force.

Standards for the Basic Education of Indian Children in Bureau of Indian Affairs Schools: The NIEA believes it is important to establish and develop a comprehensive research capability within the Office of Indian Education Programs of the Bureau of Indian Affairs to carry out such studies and surveys as are necessary to establish standards for the basic education of Indian children.

In addition to the research areas that are listed in Sec. 5 (b), it is important to note that attention must be given to variences in Indian and Eskimo learning styles or modalities and the unique intellectual strengths of children from these diverse cultures. For instance, Eskimos have high figural skills and abilities that would indicate that instructional strategies should be adapted to match these abilities. Research should be conducted relating to the traditional roles of elders and holy/medicine persons as teachers and the impact of Native languages on these teaching strategies and the learning process.

Another developmental need that has been neglected is in the area of special education...that is, the particular educational needs of handicapped, learning disabled, and gifted and talented Indian children. There does not now exist criteria for the identification of gifted and talented Indian children. Eminent Indian educators have suggested methodologies for eliciting criteria from cultural and linguistic groupings but have been frustrated in their attempts to proceed by a lack of federal agency interest. Consequently, less than 100 Indian children in the nation have been identified as gifted and talented. These identified children are Navajo. We need to find out what are the qualities of, and curricula for, exemplary learning programs for our children with special education needs.

We must initiate research to compile data and statistics that will provide information relating to the profile, characteristics, age range and numbers of actual and potential Indian students who are eligible for educational services. This base data is essential for planning future Indian education programs.

A major recommendation relating to program authority and functions to the Special Study Group and to Mr. Gerard is that there should be direct line authority from the Office of Indian Education Programs to: (1) The Office of Research and Cultural Studies; (2) The Office of Music and the Performing Arts, and, (3) The Office of Special Education. These three important areas of educational needs for Indian children have been seriously neglected in the past. Services to our children have been absolutely substandard in these areas because they have not been given priority. We recommend staffing for each office at the level of at least five professionals and two clerical staff in order to adequately serve the entire population of Indian children within the jurisdiction of the BIA. To meet in-service and pre-service teacher training needs, additional consultants should be hired by each of the three offices. We recommend that full financial support be provided to these Offices so that long overdue services may reach Indian children. These offices in particular have a mammoth job of in-service training to accomplish. The more than 100,000 children in BIA and JOM schools must begin to be served adequately in these important areas. The Indian and non-Indian teachers that teach Indian children of the culturally and linguistically different tribes have not been prepared academically to teach by Schools of Education. Dillon Platero has stated that perhaps only 2% of those teachers that have been trained by Schools of Education are retrainable. The problem is compounded when we remember that many of our Indian children speak some 206 to 252 different tribal languages. Because of these differences in language concepts and world view, Indian children require teachers that understand and appreciate these differences. Several Indian educators have voiced the opinion that there is not one kind of Indian education, but several. There is Seminole education, Pueblo education, Eskimo education, etc., and a teacher trained to meet the educational needs of Navajo children will not necessarily be prepared to teach Choctaw children. Current educational theory substantiates the Indian concept of the human being as a whole being of interrelated parts. We can now forcefully reject the outworn theory that an Indian child must be exorcised of his language, arts, social structures, values and belief systems. We are committed to an holistic approach to education for tribal-specific children that will encourage the self-actualization of the child in terms of his triabl heritage.

In order to develop and strengthen teachers competencies in the areas of cultural curricula, native music and the arts and in techniques of providing special education, several in-service teacher training strategies will be necessary including workshops and short courses, program monitoring and a sequence of on-site extension courses throughout the school year. The carrying out of these strategies will be the responsibility of the Directors of the Offices of Special Education, Research, and Music and the Performing Arts.

Because we have pointed out the needs in cultural research and special education, we should also state the case for attention in the area of music and the performing arts. Representatives of the NIEA, the NTCA and the NCAI have convened in joint meetings with the BIA to ask for the support of Music and the Performing Arts programs. Recognizing the educational value of this aspect of our Indian heritage, the three national Indian organizations requested that sufficient monies be expended so that our Indian students may have opportunities in this field equal to the opportunities of other children. The National Tribal Chairmen's Association composed of 191 tribes passed a resolution at their annual 1977 convention to endorse and support a comprehensive music education program within the BIA.

We recommend the establishment of an Indian Advisory Board to the Office of Indian Education Programs of the Bureau. There is a need for such an Indian Advisory Board to provide oversight, advice, and support to all education programs functioning within the responsibility of the Office. Selection of the Advisory Board members would be made after receiving recommendations from the tribes from the Areas. The National Tribal Chairmen's Association and the National Congress of American Indians would be consulted and would provide two seats on the Board. Criteria for the selection of Board members would specify that members must have broad knowledge and experience in such areas as: curriculum development, research, bilingual education, special education, music and the performing arts education, early childhood, elementary, secondary, post-secondary education, administration, vocational, career and physical education. Besides serving the functions of internal evaluation, the Board would give advice regarding research priorities, directions in program innovation and would help to provide communication and liaison to the tribes that selected them. In each field, such as special education, there is an informal network of professional colleagues that could be called upon to support Office programs and to help replicate exemplary programs. This Board could also consult with tribes so they could mutually recommend appropriate nominees to the Board of Regents of the Institute of American Indian Arts (IAIA). Regents of Haskell Indian Junior College and Southwestern Indian Polytechnic Institute (SIPI) are selected by tribes from the areas they represent, while members of the Council of Regents of the Institute of American Indian Arts are selected and appointed without tribal advice. This system of selection ignores the concept of participatory decision-making by the tribes. Criteria for the selection of IAIA Regents should include Indian persons respected in the fields of dance, architecture, painting, pottery, film, poetry, theatre, music, silversmithing and other indigenous art fields. There are literally hundreds of such Indian persons.

Education Personnel: Personnel ceilings for particular schools must be tied to program needs, teacher-student ratios and budgets of those particular schools. It is unrealistic that schools are forced to operate within personnel ceilings set by the central BIA administration. Disparities in teacher-student ratios must be remedied.

Regarding teacher qualifications, it is important that school boards, tribal education committees (or Divisions or Authorities) work together to develop teacher competencies that are appropriate to the teaching and learning process. These competencies may include familiarity with tribal values and behavior expectations, a rudimentary knowledge of the tribal culture, an ability to learn five tribal native language phrases a week or other similar skills that may be required for effective teaching.

Indian preference is an issue that has been dormant for decades. Because of a dirth of advocates for Indian preference, we Indian people, with a few exceptions, have been at the bottom of the totem pole in salaries and influence within the Bureau of Indian Affairs and other Indian service agencies. Only recently have Indian attorneys helped us to have courage to fight for the right of Indian preference. The NIEA, the NTCA, and the NCAI have recently joined forces again to promote the policy of Indian preference within the Office of Indian Education, OE, DHEW. National organizations, including the National Indian Health Board, have advocated for Indian preference within the Indian Health Service. This advocacy for policy change extends into the Office of Native American Programs and other departments, agencies and bureaus that provide services to Indians. These battles are just beginning and too little headway has yet been made in the effort to upgrade our few Indian educators and administrators. NIEA understands that some school boards may be comfortable with long employed non-Indians. NIEA must disagree with the proposed waiver of Indian preference for appointment to employment as cited in Sec. 15 (d). We are strongly behind Indian preference for purposes of initial hire, promotions, transfers and all other appointments to vacancies in the Bureau of Indian Affairs.

Recruitment of Indian Educators: NIEA recommends that BIA internships in education be initiated as a means of recruiting and of ultimately improving the quality of Indian educators within the Bureau of Indian Affairs.

STATEMENT OF PATRICIA LOCKE, PRESIDENT, NATIONAL INDIAN EDUCATION ASSOCIATION

Ms. LOCKE. Congressman Quie and Congressman Mottl, I am Patricia Locke, president of the National Indian Education Association.

We have read this bill, H.R. 9157. As president of this organization, I was excited about some of the ideas in this bill that would cause an improvement in the educatonal support for Indian children.

I want to explain to you that as the president of this organization, I have to get approval before I speak about policy from my board of directors. I have discussed this with my president here in Washington, D.C., and we have decided that we must take this issue to our entire board of directors. When I became president, I was cautioned that I must not speak about policy unless I do have the approval of my board of directors.

Another concern of our executive board is that we must understand how the amendment to the impact aid bill will impact on the organization of the Bureau of Indian Affairs. We did not quite understand why the two bills were combined. It frankly confused us.

So, therefore, we need to understand that and find out if there are going to be other programs that affect education, such as title I, pulled into some kind of an omnibus bill. This is something that we need to look at.

We think that the reorganization of the Bureau of Indian Affairs is a necessary reorganization. One of our concerns is that we must have the courtesy as an organization to work with the task force that Mr. Forrest Gerard is convening soon.

We want to tell him and the task force our concerns in the reorganization. We think that we must be courteous to him, since he is newly appointed. We think that it is important to talk to him about this.

In our testimony, we have included on pages 2, 3, 4, 5, 6, and 7, various comments on the reorganization, such as standards for the basic education, research kinds of needs, and several comments about the education of personnel, and the recruitment of Indian educators, a comment on Indian preference, and our recommendation for the need of an advisory board to the Office of Indian Education.

I could describe some of those particulars, if you wish.

Mr. QUIE. I wish you would, a little bit.

Ms. LOCKE. Two things: one is securing Indians as teachers; and the other one is the whole procedure of moving from civil service into the contract arrangement.

We have heard throughout the country, over the past several years, great concern about the difficulty of having quality teachers. We are concerned that the competencies for teachers have not been established by school boards, by tribal education committees.

One of the things that we would like to know. When Mr. Hawkins was head of the Office of Education two terms ago, he abolished civil service in the Protectorates, we understand. We want to know whether this had a positive impact on the children.

I think that it was Guam where the civil service was abolished. We would truly like to find out what benefits did this have to the Guamanian children. If there are parallels, the kinds of parallels we expect. This would have a great impact on our decision.

We believe that there is an interesting phenomenon taking place where tribes are developing tribal divisions of education, tribal authorities, tribal departments of education, and tribal school boards.

We believe that tribal education committees have the right to select their own personnel, and select their own criteria to define the competencies. We believe firmly that they have that option.

Mr. QUIE. First, let me ask you this: You have studied the effect of going to contract schools against the BIA schools, the whole question of teacher hiring.

Ms. LOCKE. Do you mean contracting through the Public Law 93-638 mechanism?

Mr. QUIE. It is a good suggestion to look at Guam. As we do that, if you and your group looked at the impact on education, the quality of the teachers, the results of the students that go to contract schools against——

Ms. LOCKE. Particularly, Key Point School has been successful in choosing its administrators and its teachers. That is almost an exemplary program. I am sure that the Coalition of Indian Controlled School Boards have the same positive effect, when the people have the chance to set their competencies, and choose.

If the tribe decides that it is right, they can falter and make mistakes, and improve their competencies. We think at the same time that accreditation standards for teachers need to be very high, and inservice and preservice training as appropriate to those tribal specific cultures.

Mr. QUIE. We are back to encouraging Indians to become teachers. The lack of Indian teachers is one of the problems now. A number of Indians need to have the role model.

Ms. LOCKE. Yes.

Mr. QUIE. Let me ask the representative of the National Indian Education Association, do you have any suggestions on assisting and encouraging?

Ms. LOCKE. As far as I know, there are no schools of education within this country, with the possible exception of the University of Montana, and San Diego State, and the University of New Mexico, that have really high quality programs for teachers for Indian children.

The University of Montana has some legislation for requiring teachers, teaching on or near reservations, to be required to take 6 weeks of inservice training.

So we need to attack this problem of quality teachers both on the preservice level, and at the inservice level. In my testimony I describe in some detail one prominent Navajo educator who said that he believes that only 2 percent of the graduates from schools of education are retrainable to teach Indian children.

So this program of teacher training will work with these 2 percent. So he, for instance, as well as many educators, are greatly concerned about the quality of service because we get courses called Minority Education, that often are not specific enough to deal with the linguistic and cultural differences, that our teachers have to deal with. This is a greatly complicated problem because we have the Seminole people and the Alaskan people, and certainly techniques and methodologies are not going to be wholly appropriate for such disparate cultures.

So it is a preservice and inservice need.

Mr. QUIE. In the last part of your statement, you refer to Indian preference. We found in our field hearings that so often Indians would say to us that they could understand why we would want an Indian preference, when the administrator were non-Indian. But they felt that if Indians made the selection, they should not be required to use Indian preference because they wanted a quality educator, and if the best qualified educator in their mind was non-Indian, they wanted to have an opportunity to hire the non-Indian. Since you refer to that, would you respond to that observation on their part?

Ms. LOCKE. Yes; we do know that many school boards would feel strongly that a person who has lived on their reservation for many years, a white person or a Chicano, for instance, and understand the language, would be far more acceptable. A Pima school, for instance, I can see how they would prefer to have that person rather than a Sioux who came down and knew nothing, and did not understand Southwest culture.

On the other hand, I believe that we need to think in a very broad national level. For instance, women in the BIA are at a GS-3 level on the average, in the Bureau schools, boarding schools, et cetera. That is really terrible. So we have to think on a broader scope. How can we upgrade by Indian preference? Help Indian people have higher levels of policymaking.

This is something that we are very concerned about, and we did nothing about it until we got a couple of attorneys to help us understand how Indian preference was in the law. Recently, we have begun to encourage this in HEW, the Office of Indian Education, where there are very few, frankly, high level Indians. We want our Indians in those high level policy positions.

So while we understand the local situation, and we are concerned, it is a difficult decision in the real sense because we understand those particular problems, but we are thinking about the level across the board and the upgrading of our people within the Bureau of Indian Affairs.

Mr. QUIE. I agree with you on the policy side of it. That is why we want to give, for instance, Indian advisory committees, or parent advisory committees signoff authority. Then, they will do more than just advise. You will have to take their advice seriously.

I agree with you on the policy level. My question was, when you get down to selecting teachers for the children, it seems to me that you don't have to tell Indians that they ought to pick Indians, as long as it is the Indians who have control of the policy. If you understand what I am saying.

Ms. LOCKE. It is hard for me to understand how we can have our cake and eat it, too.

Mr. QUIE. I know that this is a problem as well. I can see what you are talking about, the need to have Indians as role models. I would say that you ought to do everything possible so that Indians will be teaching.

I can also see the parents saying, here is an Indian who is a well qualified person; and here is a white person who is a very qualified person, and my child could lean to read, write, and those things better with a non-Indian. That is what throws me off, when they talk to me about that as well.

Ms. Locke. I had a Hopi friend who told me that he hoped I would never come down to teach on the Hopi reservation. I had been getting along quite well with this young man, and I said, "Why do you feel that way?"

He said: "Because our little girls might become a pushy Sioux like you."

Mr. Quie. Thank you very much.

Mr. Kildee. Thank you, Mr. Quie.

I think that we will probably go on to the next one. Our next witness now is Ms. Georgianna Tiger, representing Mr. Charles Trimble, who is executive director of the National Congress of American Indians.

[The prepared statement of Georgianna Tiger follows:]

STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS
BEFORE THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE
ON EDUCATION AND LABOR
ADVISORY STUDY GROUP ON INDIAN EDUCATION, SEPT. 30, 1977

Mr. Chairman and distinguished members of this Committee, my name is Georgianna Tiger, NCAI Education Director, and on behalf of the membership and Board of Directors we thank you for this opportunity to speak to an issue of great importance to our constituency.

There is no doubt that a reorganization of BIA education must go forward. NCAI is guided in its support of this by a Resolution unanimously passed by the voting delegation representing more than 130 member tribes at its 33rd Annual Convention. That mandate:

WHEREAS, the Bureau of Indian Affairs has developed educational changes that could have a major and positive impact on Bureau of Indian Affairs Education.

NOW, THEREFORE, BE IT RESOLVED, the National Congress of American Indians goes on record as supporting the present Bureau of Indian Affairs reorganization of the Education Division. This support is based on the condition that every tribe will have the opportunity to have the reorganition fully explained, and after such explanation shall have the option of accepting, rejecting, or modifying the plan, dependent upon which course of action most benefits that individual tribe.

BE IT FURTHER RESOLVED, that the acceptance of this resolution does not imply relinquishment of the existing area offices responsibility for education services to tribes or the relinquishment or transfer of BIA's educational responsibility.

Proposed Reorganization has not taken place because the Bureau has not had a Commissioner or Assistant Secretary to implement it. At this time, we have had an Assistant Secretary for just a few weeks. He has made commitments for his administration that have not yet had time for realization. It is not clear what benefits would result if the proposed legislation were pursued simultaneously with the Administrative reorganization. In consideration of these efforts that are now underway, we urge that a close coordination must take place in order that the results are most responsive to the needs of Indian tribes.

We urge that the respective organizations represented here, the Congress and the Assistant Secretary's Task Force on BIA Reorganization work together to achieve this goal.

The bill to reorganize education was introduced so recently that the member tribes of NCAI and the Board of Directors have not yet had time for a thorough review of it. For this reason, it is not possible for this testimony to address itself to the specifics of the bill. In working closely with representatives of NTCA and NIEA in an attempted analysis of the bill, it is evident that its complexity warrants time for a full and thorough review by our respective constituencies.

Our reactions thus far are that legislation may be premature if we are to lend our continued support to the Assistant Secretary in his overall reorganization plans. Effective management of the BIA and its service delivery must work in concert with all its components. Legislation that would reorganize one component of the BIA may isolate that component from being part of a total, effective reorganization.

We must support our Assistant Secretary in his efforts and commitments on reorganization. We must further ask for time in order that the NCAI constituency - the tribes - can be consulted in regard to any legislation affecting them.

The committments of the Assistant Secretary have been made in response to the inquiries he has received from the Congress. On behalf of the National Congress of American Indians, I express our appreciation to this Committee and the Staff of the Advisory Study Group for their efforts on behalf of Indian tribes to find expedient solutions to the problems facing Indian education today.

STATEMENT OF GEORGIANNA TIGER, NATIONAL CONGRESS OF AMERICAN INDIANS

Ms. **Tiger.** Thank you, Mr. Chairman, for the opportunity to speak to an issue which is of great importance to our organization.

The National Congress of American Indians represents the tribal membership of, last year, 130 tribes, and this year many more. We receive our policy through the mandates that the tribes gave to us by resolution.

We do have a resolution on the proposed reorganization of the Bureau of Indian Affairs, and that is included in my testimony. This serves as a guide to us in setting our policy. It is included in the constituency of NCAI, and it certainly does support the proposed reorganization of the Bureau of Indian Affairs and education.

Our concern, then, is that we have concerns on how legislation can simultaneously address reorganization while administratively the Bureau is addressing reorganization. It is not clear to us what benefits would result if this proposed legislation were pursued simultaneously with the administrative reorganization.

The bill to reorganize education was introduced so recently that our concern is that member tribes of NCAI have not had an adequate opportunity to review it thoroughly. We worked closely with NTCA and NIEA in attempting to analyze the bill. We feel that its complexities are such that we must consult with our member tribes.

In addressing the specifics of the bill, we do believe that the legislation may be premature. We don't know, in consideration of the commitments that the Assistant Secretary has made.

We do believe that effective management of the BIA and its service delivery must work in concert with all its components, and that legislation that would reorganize one component of the BIA may isolate that component from being a part of the total and effective reorganization.

Our stance is based on the membership that we support the Assistant Secretary in his efforts to reorganize, and we ask for time in order that our full constituency can review and thoroughly analyze this proposed legislation.

We would like to stress that the commitments that we have received from the Assistant Secretary have been made in response to the inquiries he has received from Congress, and we appreciate everything that this committee has done toward getting those commitments. But we do stress that we need time to consult with tribes to review this legislation, and we need time to see what commitments the Assistant Secretary will carry out.

Mr. **Kildee.** What type of time parameters are we talking about before you would be prepared?

Ms. **Tiger.** We have been discussing this with NTCA, and we would like to move quickly and work closely with the major organizations. Next week we will be holding, essentially, field hearings in the Northwest.

One of the major concerns out there with Indian tribes is this legislation, and I would certainly think that within a month, we should have the consensus. I am hopeful that we will have the consensus of our membership.

The legislation was introduced while we were holding a national convention, and it was not possible for our constitutency to really review that legislation.

Mr. **Kildee**. The Assistant Secretary has indicated that he set up a task force that would take 1½ years to look at the matters that this bill addresses itself to. Would you respond to that?

Ms. **Tiger**. I think that our constituency would be very impatient, and would not think of 1½ years for reorganization. We think that a few weeks is too short a time, but I certainly think that 1½ years is too long a time.

Mr. **Kildee**. Those are the extreme parameters.

Ms. **Tiger**. I think that within a month, I would think that we would get some kind of consensus from our membership. We feel that as representing a tribal membership, we cannot be effective until we consult with our membership, and we have to hold to that.

Mr. **Quie**. Would you yield?

Mr. **Kildee**. Yes.

Mr. **Quie**. I hope that you will put pressure on the Secretary. I have no doubt that the Assistant Secretary is moving in good faith, but in watching BIA over the years, I know there is a certain amount of inertia that is awfully hard to get them to change what they have done before.

It seems to me that as an agency, they have been very adept at making people think that they are going about a change, and then you end up not really having a change.

I appreciate what you are doing with the legislation, and being able to come back to us within a month. I would say that you ought to put the pressure on the Bureau, because this Congress is going to legislate next year. I would guess that March would be the latest that he should have the results of his reorganization. Otherwise, the Congress is going to move ahead, and we will not have the benefit of the kind of studies and inputs that he has.

I mention that to you because I think your organization could be very helpful in building a fire under the Assistant Secretary. They tend to get fires built under them, when they think that Congress is going to move anyway. Then they move quickly.

Ms. **Locke**. The National Indian Education Association will be having its convention November 6 through 10. We have talked with your staff people about a possibility of holding semihearings at our convention, where we have from 6,000 to 8,000 educators, tribal people, administrators, grassroots, et cetera.

I think that a month is too short, but I think that it is more like 6 weeks from now, would be a time when we would have a chance to get into the field and hear the reaction of the people.

Mr. **Kildee**. I think that it is important that we keep communication open between you and the committee, and the staff, so we will have the benefit of the input as it comes in on a regular basis.

Ms. **Locke**. We have invited high officials of the Bureau of Indian Affairs to attend our convention, and they would be there to hear and respond to discussion of this legislation, the proposed legislation.

Mr. **Quie**. That would be very good, if you approach it as we have with an open mind. We would like to make this legislation so that it will be more beneficial to the Indian children. If you don't like it, we do not have our feet in concrete at all.

We want to help you the best way you see it. We realize that we do not see it through Indian eyes. We have seen through all these hearings people who have tried to tell you what to do through their own eyes, rather than your eyes. As a colleague of mine said: "Don't judge them until you walk a mile in their moccasins."

Mr. KILDEE. I think that Mr. Quie is absolutely right. Too often in other areas of government, we think that we have climbed Mount Sinai, and know what to do for everybody, and all people, but we really have to have the input of the people who are most knowledgeable, and the ones who are going to be the most affected.

I, myself, would value this input on a continuing basis. The basic needs and the ever-changing needs of Indian people.

Ms. LOCKE. Thank you. We appreciate that.

Mr. KILDEE. Have you finished your direct testimony, Ms. Tiger?

Ms. TIGER. Yes.

Mr. KILDEE. We will probably have questions of you, when we finish with the panel. Now we will hear from Calvin Isaac and Ms. Frances Ayer, from the National Tribal Chairman's Association.

You may proceed in any way that you choose.

[The prepared statement of Mr. Isaac follows:]

STATEMENT OF
THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION
BEFORE THE
COMMITTEE ON EDUCATION AND LABOR
ON
H. R. 9157, A BILL TO AMEND PUBLIC LAW 874, EIGHTY-FIRST CONGRESS, TO PROVIDE FOR THE BASIC EDUCATION OF INDIAN CHILDREN, TO PROVIDE IMPROVEMENTS IN THE DELIVERY OF OTHER EDUCATIONAL SERVICES FOR INDIANS, AND FOR OTHER PURPOSES

September 30, 1977

Mr. Chairman and distinguished members of this committee, good morning. I am Calvin Isaac, Tribal Chief of the Mississippi Band of Choctaw Indians and a member of the Education Committee of the National Tribal Chairmen's Association. BIA structure and its impact on Indian education is the matter of vital mutual concern that draws us together. We too are concerned that the Bureau meet this Government's responsibility to federally recognized tribal governments for education of their members.

The survival of Indian society depends upon its ability to project itself into the future. The development of our youth and their response to the challenges of the future will determine the ultimate destiny of our people.

Speaking personally and for NTCA, thank you for your sincere dedication over this past year to the furtherance of Indian education. We appreciate appearing before you to open communication on that portion of HR 9175 which relates to reorganization of the Bureau of Indian Affairs education functions. For approximately two years Indian tribes have been concerned about apparent ongoing reorganization efforts of the BIA Office of Education, particularly with regard to circumvention of tribal authority through direct funding to schools, denying direction of education programs in absence of contract, and encouraging direction of schools by local school boards not sanctioned by the tribal government. Whether intended or not, tribes were not adequately consulted and the efforts were never clear.

I hope any reorganization, legislative or administrative, addresses the full spectrum of functions for which the Bureau of Indian Affairs is responsible, so the Bureau can perform effectively as an integrated whole. The Bureau's range of functions is broad and correlates to the broad range of tribal governmental functions. The reorganization proposed in the legislation before us today separates education from the overall functions of the Bureau.

Likewise, the reorganization separates education from the overall governmental functions of the tribe. To allow this separation negates all logic and every major study on the interdependence of the community life with the total educational process. What children do in school is not exclusively a result of what happens in the school; but, is a result of what happens in their home and environment. Hence, decision makers influencing the education of Indian students must be the same who make decisions about the total Indian comunity - - namely, tribal government.

Preliminary analysis of H.R. 9175 discloses that the mechanics, extent and impact of this separation requires extensive study and evaluation.

Our initial response to this bill is that its contemplated action precludes the comprehensive reorganization of the Bureau that the new Assistant Secretary for Indian Affairs, Department of the Interior, has undertaken. In response to congressional mandate, the Policy Review Commission's Bureau of Indian Affairs Management Study calls for extensive restructuring of the Bureau with concomitant redelegation of authority at the tribal level as envisioned in the process of Pub. L. 93-638. The Assistant Secretary has just been confirmed, and his administration certainly is due the opportunity to address fully all the issues presented to him by the study. To fragment his function is perhaps to create an unnecessary schism to hamper service delivery to intended beneficiaries.

Additionally, NTCA has met with members of President Carter's Reorganization Project which presumably will integrate the Assistant Secretary's efforts with theirs. This legislation may force handicaps on those decision makers who currently seek to maximize the utility of service delivery.

Both the President and the Assistant Secretary have repeatedly pledged adherence to the consultation and tribal determination aspects of Pub. L. 93-638. Such consultation, if effective and meaningful, can come only from deliberate and unhurried collaboration of principals. As yet, this bill has not followed that pattern; this Association received a rough draft of this bill, dated September 13, on September 14. As the voice of the duly elected leaders of 192 federally recognized tribal governments, the National Tribal Chairmen's Association can hardly muster even marginal response among its diverse constituents on this short notice. This isn't the scope of consultation we understand to be envisioned by the process of Pub. L. 93-638, especially given both the complex and vital nature of this bill's substance. We wish to reserve the opportunity to comment on this plan, which goes to the very heart of each tribal community. It is imperative that we maintain communication in this matter.

Congress declared its respect for the right of Indian self-determination and its intent to adhere to a policy of developing this most fundamental of Indian rights with its passage of Pub. L. 93-638, less than two years ago. With the Self-Determination Act, Congress committed itself to maintenance of the continuing relationship with Indian tribes and to an orderly transition from Federal domination of programs for Indians to "effective and meaningful participation in the planning, conduct, and administration of those programs and services."

Thank you once again for your efforts on behalf of Indian education. Let cooperation and understanding be the benchmark of our relationship in the future.

STATEMENT OF CALVIN ISAAC, COMMITTEE OF THE NATIONAL TRIBAL CHAIRMAN'S ASSOCIATION, ACCOMPANIED BY FRANCES AYER, ATTORNEY

Mr. Isaac. I am Calvin Isaac, tribal chief of the Mississippi Band of Choctaw Indians, and a member of the Education Committee of the National Tribal Chairman's Association, a group of 192 federally recognized Indian leaders throughout the country.

The position we will take in reference to the proposed biil is that, we feel that we need more time, similar to NCAI's position, to consult with our people in the field. Having been a Bureau educator by profession for several years, I think I have the feeling as to why this bill is needed. Personally, I welcome the kind of wording that is in the bill.

I still think that we need some time to review the bill in toto, and also to consult with our respective people on the reservations.

There are four major points that I would like to stress with you at this point.

No. 1. For approximately 2 years, Indian tribes have been concerned about the kind of reorganization efforts of the BIA Office of Education, particularly in reference to circumventing tribal authority through direct funding to schools, the nondirection of education programs, and lack of contracts, and encouraging of schools by local school boards not sanctioned by the tribal government.

No. 2. I hope that any reorganization or reorganizing effort administratively addresses the full spectrum for which the BIA is responsible, so that the BIA can perform effectively as an integrated whole.

The proposed legislation before us today separates education from the overall functions of the Bureau. Decision makers influencing the education of many students must be the same, and that is namely the tribal government.

No. 3. Our initial response to the bill is that its contemplated action precludes the organization of the BIA, the new Assistant Secretary for Indian Affairs has undertaken. The Assistant Secretary, just recently confirmed, and his administration certainly is due the respect and the opportunity to study all the issues presented to him by the BIA management study.

The President and the Secretary of the Interior have repeated their commitment to Public Law 93-638.

As a board of elected leaders of the Indian constituency, NTCA can hardly muster enough response among its constituents on such short notice. We wish to reserve the opportunity to comment on this plan which goes to the very heart of each Indian community.

It is imperative that we maintain communication with our people in this matter. Congress declared that it is right for Indians to have self-determination through the passage of Public Law 93-638. With this act, Congress committed itself to maintenance of continued relationship with tribes and to an orderly transition from Federal dominated programs for Indians, to programs sponsored by the Indian community.

Thank you. This concludes my remarks.

Mr. Quie. Could I make one comment?

On your point that we write this legislation so that the tribes and tribal governments make the decision on education as well as other matters, we have tried to address ourselves to that. Where there is a prohibition in the constitution of the tribe that goes contrary to that, we will respect that.

One thought that I would like to leave with you before you go back and talk to the tribes is that I have noticed that when a person becomes elected in the tribal government, many people think that he or she has changed their way of thinking from the way they were as an ordinary citizen. I recognize that coming out of a rural background myself and the farmer cooperatives.

When a person is elected to a farmer cooperative, they start thinking as a manager rather than as a farmer. The rest of the people think as farmers, and say: "What has happened to my neighbor who is the secretary of the board? He starts thinking as a manager of a cooperative." I know that it is the same thing there.

So what I am driving at is, in setting policy within the tribe for education matters, there need to be individuals whose main concern and responsibility is education, not jobs or roads, or protection of the safety of individuals.

What you are talking about, and I hope that I understand it correctly, is that we not write into the legislation a requirement on selecting those individuals who set policy contrary to what the tribe wishes.

Yet, I hope you would agree, that the ones who set policy ought to be determined.

Mr. **KILDEE**. Some people think that the same thing happens to Congressmen.

Mr. **QUIE**. Thank you very much.

Mr. **KILDEE**. Ms. Ayer?

Ms. **AYER**. We are with Chief Isaac, and do not have any separate testimony. If he would like, I would be glad to respond to any questions.

Mr. **KILDEE**. We will probably save a portion of the questions until we have heard from the entire panel. You can respond at that time.

We will now hear from Daniel Peaches, representing Peter McDonald, chairman of the Navajo Tribe.

Mr. Peaches, you may proceed in any way you desire.

[The prepared statement of Mr. Peaches follows:]

STATEMENT BY REPRESENTATIVE DANIEL PEACHES
ON INDIAN EDUCATION

Before House Sub-Committee of Elementary and Secondary Education
Washington, D.C.
September 30, 1977

Mr. Chairman; Ladies and Gentlemen:

I welcome this opportunity to present my views on the proposed Re-organization of schools operated by the Federal Government or funded with the Federal monies. I believe it is very timely to discuss this important issue because the opportunity is here to correct some of the problems and more importantly the Indian people are ready to accept some of the responsibilities for their own Educational Programs.

Indian Education continues to be a failure in this country because the basic flaws of most Indian Education programs remain unresolved and even allowed to be perpetuated by complacency and bureaucracy.

The problem is and has always been the failure on the part of Government and Educators to recognize and utilize Indian cultural heritage as the necessary ingredients in addressing the educational needs of the Indian child.

Recent attempts to rectify this situation has been frustrated and misdirected because of confusion and a total lack of coordinated efforts in the field of Indian Education. The much heralded English as a Second Language is a flop because it does not teach Indian children an appreciation for their cultural heritage but rather the programs are only designed to give Indian children proficiency in English and thus have a negative connotation on their own culture. Title 7, the Bilingual Education bypasses the Indian people by funding school districts without any meaningful input by the Indian organizations. Title IV, the Indian Education Act of 1972 has suffered the same fate at the local levels.

If it is not lack of funding it is the misguided programs, if it is not the wrong programs it is irrelevant curriculum and so it goes. This is typical of Indian Education today, a hit and miss affairs, all at the expense of the Indian children.

So what is the solution? Indian Education must be tailored to the specific needs of the Indian children by giving tribes greater discretion and controls. Educational policies should be designed to meet the Special Educational needs of the Indian people by giving the Indian people the opportunities to develop some of their own educational policies. Educational programs must be made to recognize and utilize the cultural heritage of the Indian people if such educational programs are to be meaningful and productive.

The BIA schools should be measured for effectiveness in delivery of its educational services on a periodic basis by Indian standards. Educational programs must be evaluated for its quality and relevance in meeting its special task by criteria that reflects the needs of Indian people. BIA Educational must be re-organized to reflect Tribal needs and priority. It must be made flexible to meet the contigency of the various cultural values of the Indian people.

Educational budgeting should be prepared or approved by the Tribal Government whenever possible.

If Tribal control is to be the goal of BIA Education Services and programs, control while necessary is not enough, there must be adequate support in the areas of technical assistance and training of personnel.

Self-determination if rightly interpreted, is to strengthening Tribal institutions and not termination of Federal trust responsibility. In Education, Indian people should have the opportunity to operate their own Educational programs.

On the Navajo Reservation, as I'm sure its true on all Indian Reservations, dropout rate up to 8th grade is 25%, at the secondary level, it is 30% and at the college level, at least 60%. So you can see the effect is culminative which would indicate a basic flaw in the government approach to educating Indian children. While the rest of the country screams for a return to the basics, the three R's, We the Indian people need demand special education as the way to prevent the waste of the human resourses.

Re-organization is fine but restructuring is better if a better alternative is to be found. The basic is good and necessary but relevancy is vital to our survival in today's world.

While the rest of the Nation is concern about quality education, our concern is survival, not just of our cultural heritage, but our survival as a people. We are facing a cultural extinction, the real threat of disappearing as a people and therefore we are fighting for our very existence.

Throughtout the human history, races of people have disappeared from the face of the earth because of many factors; disease, plague, wars, etc.. But today, the Indian people of this country are facing extinction because of insensitive majority who lack understanding and compassion for their fellowmen.

But we all have a responsibility as citizens of this Nation whose dedication is Liberty, Justice and the Pursuit of Happiness.

Thank You

STATEMENT OF DANIEL PEACHES, REPRESENTING PETER McDONALD, CHAIRMAN, NAVAJO TRIBE

Mr. PEACHES. My name is Daniel Peaches, and I am here representing the Navajo Tribal Council. Like the rest of the panel here, we did not have the opportunity to really go to the details of the proposed legislation, but I would like the committee to know that our tribe supports the concepts of streamlining the Bureau of Indian Affairs to make it more effective in the area of delivering educational services to the Indians.

However, the proposed legislation, in my opinion—on the one hand, you want to improve the educational services and streamlining them and making them more effective; on the other hand, there is a possibility of taking tribal discretion and authority away from the local area where the Indian people are located.

So that should be studied closely to make sure that the legislation does not do that. That is the concern that I would like to express. The only way to counter that is to, perhaps, make the BIA boarding school board more effective, with more discretion and more authority either at the tribal government, or have more discretion in review of the budgetary process, have more input, and also the right to sign off on proposed programs at the local level. That may be one way of doing it.

Also, as Mr. Isaac pointed out, from the standpoint of the tribes, the direct funding is good if it goes through the tribe. That is the first rule. But sometimes direct funding means going through local organizations, bypassing the tribal government. That creates a conflict between that school and the tribal government because the particular organization would get funding, and the tribal government would not have any say-so as to the manner in which the programs are funded. So that sometimes creates conflicts at the local level, which may also be studied to make sure that the tribal governments are not bypassed, and we do have direct funding.

I would also like to point out that in any proposed reorganization, the idea, at least in recent years, is to give the Indian people more discretion, more responsibility to monitor their own programs, whether it be education or anything else.

I am sure that most of the Indians represented here are aware that we are in need of technical assistance at the local level because just to give us responsibility and more discretion to manage our own affairs does not automatically make things go right.

Sometimes, we are given programs, and other responsibilities, and the local people are not given the training or technical assistance and the local support that is necessary to make that a success.

Another area is the personnel selection. Here again, without going into details of the bill, it seems to me that, essentially, the proposed Office of Education will have most of the discretion. I raise the same issue again of whether the tribe should have some say-so in personnel selection.

I say this because on the Navajo reservation, we have a non-Indian person who has a tendency to molest children. Certain communities on the Navajo reservation have expressed this concern through chapter meetings and by letter. It seems that this guy is either molesting children, or the children are telling stories about him.

He has a weird behavior, and this has gone on for 15 years. Finally, the tribal council has passed a resolution saying that this person is undesirable on the Navajo Reservation, and the Bureau has failed to investigate it. It has failed to take any action to relieve him of his job.

So the council has to come in and pass a resolution ordering him off the reservation. This has been going on for 15 years.

All the discretion, whether it is in the central office, or whether it is in the agency office, or whether it is in the principal's office, sometimes it does not get results, unless it gets outside. That is why the tribal government should have some say-so when the bill is developed so this kind of thing does not become a problem.

We have submitted written testimony that is more philosophical than I have expressed in my oral remarks, and the issues in the bill.

Mr. KILDEE. Thank you.

Our next witness is Mr. Michael Gross, an attorney representing Ms. Betty Gress, acting director, Coalition of Indian-Controlled School Boards.

[The prepared statement of Mr. Gross follows:]

BEFORE THE

ELEMENTARY, SECONDARY AND VOCATIONAL

SUBCOMMITTEE
COMMITTEE ON EDUCATION AND LABOR
U. S. HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 1977

TESTIMONY OF

THE COALITION OF INDIAN CONTROLLED SCHOOL BOARDS, INC.

Good morning. My name is Michael P. Gross. I am an attorney from Santa Fe, New Mexico, and have been asked by the Coalition of Indian Controlled School Boards to make this presentation to you. Unfortunately, the officers and director of the Coalition are unable to be here this morning, and this is why the Coalition has asked me to come.

The Coalition of Indian Controlled School Boards is most grateful for the kind invitation you extended to it September 13, 1977, to testify about reorganizing the BIA. No topic is of more critical concern to us.

Ever since its inception, the Coalition has waged war against the Bureau's infrastructure, a feudalistic assortment of quasi-independent satrapies controlled by lords called Area Directors from posts far off in the provinces - where Indian people live. These posts are the latter day military forts from which the United States continues to exercise colonialistic powers. We believe that until this system is reformed and direct lines of communication are once again established between Congress and Indians, the goal of self-determination will remain distant. Last May, an elderly Indian woman school board member from the Standing Rock Reservation sat before the Advisory Study Group and was asked what single action she would recommend to improve conditions for Indians. Her instant reply: "Abolish the area offices!" We agree - and that is why we strongly support the general approach taken by the Advisory Study Group in its draft bill.

Of course, the last ten years have seen a great deal of progress in Indian affairs, especially in education. Indian-run schools are becoming more common, both in public school systems and in the BIA system. But these have come into existence largely because of the dogged persistence of grassroots Indian people fighting to control their own local schools, and not because of great changes in the way the Federal government operates. The Indian Self-Determination Act, a milestone in Federal-Indian relations, is nevertheless much more a confirmation of a change in the relationship between the BIA and many Indian communities brought about by pressure from these communities themselves than it is a blueprint for more change. Next week, this Committee invites us to testify on the Johnson-O'Malley law, a topic which cannot be discussed without touching on the long-standing policy of the Federal government to send Indian children to public schools. Although conditions in these schools may have improved in the last forty years, they are still generally controlled by non-Indians whose only purpose is to deprive Indians of their cultures, languages, and identities. P.L. 93-638 does little to change that; and likewise, turning to today's topic, it does little to reform the basic patterns of Indian-Federal dealings through the BIA.

The Coalition came into existence in 1971 in response to internal Bureau opposition to contracting. In 1970, the Bureau had made the mistake of funding the Ramah Navajo School in New Mexico, in ringing fashion, by announcing a whole new policy for putting control of Bureau schools in the hands of local Indian communities. The Indian world became electrified. Then came the stirring Presidential Message of July 1970, which seemed to auger in a new era based on the principle of self-determination. The announcement took the bureaucracy by surprise, but it did not take long for a spirited counter-offensive to take shape by those - especially at the area and agency levels - to whom self-determination was threatening. Not only jobs were at stake, so were ancient perceptions of how the United States must deal with Indian people. So the infrastructure sought to undo the harm done by those mavericks at the top, people like Commissioner Louis Bruce and Acting Education Director William King, who had decided for Ramah. The issue came up at Wind River. In March 1971, a community group on this Wyoming reservation, reacting to deplorable education conditions in surrounding schools, submitted a proposal to the BIA in Washington requesting funds for a Ramah-type school. Wind River's original request had been rejected by the Billings Area Office, whose contracting officer, as late as this week, explicitly recounts how his office summarily opposed that proposal. Hence, the submittal to Washington. But here too, opposition rooted in the ancient feudal system was to be found. Initially, Wind River was told there was not enough money for the project, although inside information revealed there was. Then, Wind River was asked to rewrite its proposal, although the original was quite detailed and well documented. When this task was done, Wind River was told that the Bureau could not contract until a new contracting form was developed, which took several months. By the time the new form was completed, in late summer 1971, it was too late to open the new program in time for the school year. It was then that word of Wind River's plight reached other Indian communities. Places like Busby, Montana on the Northern Cheyene Reservation and Loneman on the Pine Ridge Reservation were also desperately seeking control of their own schools. Now, they coalesced around the particular problem at Wind River. Together with several other Indian community school groups, including Ramah, they banded together and offered to assist Wind River. A group of about 15 community representatives from around the country succeeded in raising a small amount of money for a trip to Washington, D. C. In late October and early November, they created such a furor about broken BIA promises that the Washington Post ran a full-page feature story about them and the Vice President's office made specific inquiry about Wind River at the BIA. Within four days, Wind River had its contract and a new permanent Indian grassroots education organization, the Coalition, was born.

Today, the Coalition has over 160 members - school boards, committees, JOM parents groups, tribal organizations - all battling to win control of their children's education as Ramah and Wind River have done. As soon as Wind River was funded, CICSB's attention turned to long range solutions, most especially reformation of the BIA. Ever since its inception, the Coalition has struggled to make the principle of direct access to the BIA central office for Indian community school groups a working reality. So far, it has not happened. Despite P.L. 93-638, area offices are still firmly in control of day-to-day contracting procedures and much of the policy behind them. Although great strides have been made through the P.L. 93-638 regulations to codify contracting, the scheme developed by the BIA is still massively flawed by retention of this loose, decentralized decision-making system. So long as the area offices maintain control over negotiations with P.L. 93-638 applicants, full flowering of self-determination will not be possible and countless Indian communities will continue suffering under unresponsive education and other programs. Even today, the most common discrepancy in the Bureau's handling of P.L. 93-638 is the inconsistency of policy from area office to area office. One office includes a percentage of agency education funds in the direct costs of contracted school programs, the next does not. One office believes lump sum contract support agreements are permitted (they are - by 25 CFR 276, Appendix A, Part 1, Subpart F(2) (b), the next says no. One area office has until recently insisted that contract schools are not eligible for contract support for indirect costs, the next says they are (they are, see Commissioner's memo to area offices October 15, 1976). The list goes on and on. But perhaps the worst effect of the present decentralized area office system is its tendency to pit employees of the Bureau at these lower levels against Indian tribes who are interested in contracting. So deep are these antagonisms that law suits and the threat of law suits by BIA employees or their relatives against tribal organizations to prevent contracting have taken place at a number of locations. We believe these antagonisms are deepened by the BIA's structure. Of course, there are many BIA staff members at all levels who sincerely wish to carry out Congressional policy, but because self-determination directly threatens the power and influence of the area offices, the traditional linchpins of the BIA, the natural reaction of many BIA employees to contracting is negative. We believe a proper restructuring of the BIA would help turn this reaction around and help convince BIA staff that self-determination is in their interest as well as their tribes. We are especially concerned that Congress has not delineated in enough detail the distinction between the Indian preference policy mandated by the Indian Reorganization Act and approved in Morton v. Mancari, 417 U. S. 535 (1974), and Indian self-determination. Hiring Indians for BIA jobs is a necessary and supportable policy; thinking that such a policy alone can substitute for effective local Indian self-government is a fallacy. At the heart of the problem is the disjuncture between the stated Federal aim embodied in P.L. 93-638 of "assuring maximum Indian participation in the direction of educational, as well as other Federal services to Indian communities" and the mechanism employed by the BIA (the area offices) for implementing it. We must recognize that on many reservations, the BIA represents a dual government, competing with and sometimes controlling established tribal governments. The point men for the BIA in continuing this Federal interference are the area directors. At the time the 1973 realignment of the Bureau was adopted, Birgil Kills Straight, a founder of CICSB, made the following point in testimony before Congress:

> The new policy regarding Bureau action is decentralization, which places decision-making, including educational contracting for Indian self-determination, in the hands of the area offices. It is well known that area offices, more than any other single element in the Bureau, oppose self-determination. And for very good reason. In its ultimate form, Indian self-government must logically result in displacement of the BIA's overblown bureaucracy.

That perception remains as true today as then. When contracting deadlines are routinely ignored, when due process declination protections are circumvented, when funding allocations mysteriously evaporate as soon as a tribe indicates it wants to contract - all of which have occurred in the recent history of self-determination - then one must question whether the administrative procedures for implementing Federal policy are adequate. We believe they are not.

Most especially, we believe a great illusion in the form of decentralization has been foisted on Indian people by those who wish to retain their power over Indians. Rather than bringing decision-making closer to the people, decentralization has removed it. Simply stationing a Federal bureaucrat with autocratic power in a compound next door means nothing in terms of improving control of one's own destiny. In fact, if impedes control because it makes responsible authority in Washington with supervisory powers over the field man that much more remote. Decentralization has been a euphemism for continued Federal control of Indians. Even the new Assistant Secretary of the Interior for Indian Affairs, a man who was instrumental in drafting P.L. 93-638, said recently on national television that he wishes to further decentralize the Bureau's operations. We think this would be a great mistake. The 1973 realignment reestablished area directors' power within the Bureau after a brief interlude of reform under Louis Bruce. Realignment represented a reactionary move back to a system which had subjugated Indians for decades. The lessons are clear. Self-determination is the best way to decentralize government for Indians in the true sense. It eliminates the power of the bureaucracy over Indian lives and places it in the hands of Indians themselves. But, self-determination cannot come about until Indian communities have access directly to Washington-based authority. The first school contracts were all negotiated and executed in Washington. Had this not been possible, it is doubtful any of these contracts would have been written. Then, as now, Indians understood that progressive winds in Indian policy most often blow effectively when grassroots groups ally themselves directly with Capitol Hill. And, that can only happen in Washington. The Bureau is an executive agency answerable to Congress. But Congress cannot oversee the Bureau effectively except in Washington. Self-determination is a policy designed to put Indians in charge of programs designed for their benefit. The BIA is Congress's agent for carrying out this policy. It follows that self-determination cannot be meaningfully controlled by Congress unless it is open for inspection in Washington. That is why the Coalition, along with many other groups, have long urged the creation of a central office contracting unit. We recognize that all contracting cannot be conducted from Washington alone, but we see no reason why contracting cannot become a direct Washington-run program. Through the creation of a unit at BIA headquarters charged with the duty of ensuring that eligible tribal organizations get their contracts promptly and without political interference from the Bureau itself, much could be done to overcome obstacles presently in the way of many self-determination projects around the country. This idea is not new nor is it strictly an outsider's view. In 1973, Deputy Assistant Secretary of the Interior John Seidl, wrote the following:

> The result of my review of contracting leads me to believe that the Commissioner ought to establish an office of contracting within the Bureau run by an advocate to accomplish the steps I have outlined above and then see to the implementation of contracting major reservation programs when it is desired by individual tribes.

Along with the establishment of a central office self-determination advocate, the movement toward Indian control of Indian programs would be enhanced by the direct funding approach suggested by BIA Education Programs Director William Demmert. Attached to this testimony is a position paper of the Coalition dated May 24, 1977. It represents the Coalition's response to the recommendation previously circulated on this subject by Mr. Demmert's office. With some exceptions on details, the Coalition believes strongly that this approach would be beneficial to Indian education. We are gratified that the Advisory Study Group's draft reorganization bill incorporates Mr. Demmert's direct funding approach along with structural reform of the BIA's education activities. We hope to have a detailed response to the proposed bill based on a survey of our member contract schools in the near future and will submit it to you promptly. The bill puts line authority over Indian education back in the hands of the Director of Indian Education Programs where it belongs and contributes to the implementation of an equitable funding formula for all BIA schools, including contract schools.

In summary, the Coalition has long favored the removal of line authority in education from the area offices and its transfer to BIA headquarters. We believe such a move would shorten the lines of communication between Indians and Congress, the source of policy and money. At the same time, we wish to emphasize that BIA reorganization, though a vital necessity, will not of itself transform Indian education. Along with a change in BIA structure, Congress must also adopt a more explicit policy favoring Indian control in public schools, a topic we will address more extensively next week when the Coalition reappears before this Committee. For now, we wish to record our impression that the Advisory Study Group and the Committee as a whole are moving in the right direction. We commend you and wish to make ourselves available at any step of the way for help in this badly-needed process of reform.

Thank you, Mr. Chairman and other Committee Members.

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COALITION OF INDIAN CONTROLLED
SCHOOL BOARDS, INC.

POSITION PAPER

DIRECT FUNDING - FORMULA FUNDING FOR INDIAN EDUCATION

May 24, 1977

OVERVIEW

The Coalition of Indian Controlled School Boards, Inc. represents 160 grassroots Indian school groups. It's major function is to promote Indian control of Indian Education. C.I.C.S.B. has been instrumental in helping to shape the Indian self-determination movement. For this reason, it is vitally concerned about the possibility of a change in the way Indian contract schools, many of which are C.I.C.S.B. members, and Indian education in general are funded. This paper voices the Coalition's views about the proposal of the Office of Indian Education Programs of the B.I.A. on the subject of Direct Funding and Formula Funding. It was prepared in consultation with representatives from the following contract or potential contract schools:

1. Loneman School (SD)
2. Busby School (MT)
3. Hannahville School (MI)
4. Marty Indian School (SD)
5. Couer D'Alene Tribal School (ID)
6. Puyallup Tribal School (WA)
7. Shoshone-Bannock School (ID)
8. Theodore Jamerson (ND)
9. Ojibwa School (ND)
10. Rough Rock School (AZ)
11. Borrego Pass (NM)
12. Rock Point Comm. School (AZ)
13. Pierre Ind. Learning Ctr. (SD)
14. Kyle Little Wound Sch. (SD)
15. Wyoming Ind. H.S. (WY)
16. Ramah (NM)
17. St. Francis (SD)
18. Menominee Comm. School (WI)

Each of these schools has indicated support for the positions taken in this paper.

THE CONCEPT

The Coalition strongly endorses direct funding based on an equitable distribution formula for all B.I.A.-operated or -funded schools. It commends the Office of Indian Education Programs (B.I.A.) for it's initiative in putting forth draft papers on this subject. Although we do not support every aspect of these drafts, we are very much in agreement with their overall thrust. The points which follow are intended to serve as constructive criticisms of those drafts to make them better serve the policy of P.L. 93-638, The Indian Self-Determination and Education Assistance Act.

THE CONCEPT PAPER DATED MARCH 17, 1977

In our view this paper serves as a useful springboard for discussing direct - formula funding. It's chief fault lies in confusing those two concepts, however, and our first recommendation is that direct funding be dealt with as a separate component, distinct from the formula itself. We make this suggestion because direct funding rightfully means more than just a shift to a different method for allocating funds to B.I.A. schools. We believe the Senate Appropriations Committee (Report No. 94-991, June 25, 1976) intended to reform the way in which these schools are funded, as well as their level of funding.

RECOMMENDATION: Ever since its founding, C.I.C.S.B. has called for direct Central Office responsibility over the education contracting process. We renew this demand now. In our experience, full self-determination cannot be achieved until the B.I.A. creates a mechanism by which Indian tribes and organizations can deal directly with decision-

Page Three (Continued)

makers in the Central Office. This means that P.L. 93-638's regulations should be amended to require Central Office - Tribal Organization negotiations for contracts when requested by the Tribal Organization. The remaining functions of area offices as to P.L. 93-638 must be more precisely defined and narrowed. In particular "Technical Assistance" needs to be defined, as does the entire concept of negotiations under P.L. 93-638. Furthermore, education should be removed from the Band Analysis and funded entirely on the basis of needs identified through the formula. We believe direct funding is critical to the policy of P.L. 93-638 as presented in the concept paper, only encompasses half the idea.

THE FORMULA

(1) The formula outlined in the March 17, 1977 concept paper is seriously deficient. It links the funding of Indian (B.I.A.) education to State funding levels, a linkage which does not correspond to real Indian needs. Why should an Indian community in Idaho, for example, get several hundred dollars less per child than a comparable Indian community one mile away across the state line in Washington. Indian Education is a special Federal responsibility. The accident of which State an Indian community finds itself in should not be used as a basis for defining the Federal obligation to educate Indians. Aside from its educational irrationability, the State-based formula to Federal Indian education raises serious legal questions analogous to Serrano v. Priest questions.

RECOMMENDATION: Initiate a thorough study to determine standards for Indian educational quality and use these as the basis for the eventual formula. In the meantime, as a rough approximation of base Indian education need, use the national per pupil average corrected

Page Four (Continued)

by a cost of living factor for those Indian communities such as Alaska where costs of living are substantially above national averages. People with indepth knowledge and practical experience of Indian controlled schools, including rural Indian education and Indian education law, should be retained for the development of the entire formula.

(2) The 80% allotment using the previous year's enrollment would produce an inequitable situation for many contract schools whose annual enrollments are rising or which fluctuate, especially in younger schools. The percentage figure is arbitrary and would seriously handicap budget planning (particularly for teacher and other personnel contracts) in Indian-controlled schools.

RECOMMENDATION: The formula should use objective criteria for estimating enrollments based on concrete data which may include, but should not be limited to, previous year enrollments. Contract schools should then receive 100% of their need based on these estimates, with adjustments up or down for deviations of more than 5% in actual enrollments. A Central Office contingency fund should be created to add to contracts for schools with higher enrollments than estimated. Membership should be defined as the enrollment on the last school day in October or the first day of March, whichever is higher, of the contract year or budget year.

(3) Special Factors for increments to the basic formula should be defined and weighted in equitable ways.

RECOMMENDATION: In addition to increments based on weighted factors, the B.I.A. should reserve a certain amount for discretionary distribution to contract schools based on unique conditions not covered by the formula.

Page Five (Continued)

(4) The provision for priority of funding in the proposed regulations discriminates against contract schools in general (if the regulations are intended to cover all B.I.A. financed schools) and against younger contract schools in particular. This creates a dis-incentive to contracting which should be eliminated.

RECOMMENDATION: Tribally operated schools should be funded from the same line item as other B.I.A. financed schools except that a separate appropriation should be made for funding expected new contracts with tribal organizations to operate schools not previously operated by the B.I.A.

(5) 15% for plant operation and maintenance is woefully low. Most contract schools have PO&M costs substantially higher.

RECOMMENDATION: Increase the PO&M percentage to 25% and allow for special conditions requiring even higher amounts, e.g., schools operated in older facilities or those which are very remote.

SUMMARY

The Coalition favors direct funding of all B.I.A. schools based on an equitable formula not tied to State per pupil expenditures. In addition to the formula, however, amounts should be reserved for contingencies not covered by the formula and for the funding of new contract schools not previously operated by the B.I.A. A Central Office contracting division with authority to negotiate self-determination contracts is a necessity. The draft papers prepared by the Office of Indian Education Programs of the B.I.A. should be reworked to incorporate these recommendations and this reworking should actively involve Indian contract schools.

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STATEMENT OF MICHAEL P. GROSS, ATTORNEY, REPRESENTING THE COALITION OF INDIAN-CONTROLLED SCHOOL BOARDS

Mr. GROSS. First, let me extend apologies from Ms. Gress herself in not being able to attend today's session. She asked me to substitute for her and the officers of the coalition.

If I may, I think that it is safe to say that no issue is of more importance to the Coalition of Indian-Controlled School Boards than reorganization of the Bureau. We have been struggling to achieve the kind of direct mechanism of communication between local Indian community school groups and tribal organizations and Congress that we believe is so absolutely essential in furthering the aims of self-determination.

In 1970, the Bureau made a big mistake. It funded the Ramah Navajo School in New Mexico, and it compounded the felony by saying that the funding of that school would inaugurate a policy of turning control of the Bureau schools over to the local Indian people themselves.

Now this was a radical approach that electrified the Indian communities, and they began making inquiries about doing the same thing. Lo and behold, the President in this 1970 message to Congress elaborated and extended, and, in effect, administratively codified this new approach called self-determination.

This took the bureaucracy by surprise, and it took a couple of months for it to react, but it did. In quite bold and direct fashion, the area offices of the Bureau, which have constantly been the linchpin of Federal policy with regard to Indians, these are the fulcrum around which congressional policy has always operated and managed to get themselves organized to oppose this policy from within.

On a reservation in Wyoming, a group of parents long dissatisfied with the deplorable conditions of the local schools, formed themselves into an organization to start the Ramah-type school. This was the first school after Ramah. This was the first group to come into the Bureau and say: "We would like to do what you just say was in your policy."

So they submitted a new proposal which was detailed and very extensive. They first asked the area office to fund it. The area office summarily said: "No." In fact, to this day, the area office fully acknowledges its refusal, and their opposition to the existence of that school.

So they had no other choice but to come to the central office, and submit the proposal. At first, they were told to rewrite it. First they were told that there were no funds, but we knew otherwise because we had sources within the Bureau and Congress itself, saying otherwise.

Then the Bureau in Washington, under pressure from the area office, said: "You have to rewrite your proposal." That was done. Then the central office said: "We have to develop a new contracting form." Lo and behold, it took 3 or 4 months to do that, during the course of which, when this form was finally completed, it was, perhaps, 100 pages long.

We came to Washington with a group and said: "Look, we are talking here about a contract of some $100,000 for the support of a single, local alternative school. Would you mind showing us the contract that you have written with any one of the Johnson-O'Malley States, which are receiving upwards of $2 million apiece?"

Lo and behold, out came this minuscule little document of three or four pages, transferring millions of dollars from the Federal Government to the State departments of education. We felt that the contrast was very eye opening as to how the bureaucracy was relating to little Indian groups.

To make a long story short, I think the Indian communities heard about the situation, and banded together to come to Washington to apply uniform pressure. These were grassroots people. They were not tribal governments, or even elected school boards in the official, traditional sense. These were people who were parents, who had gotten themselves formed into committees to try to see what they could do about the incredible situation facing their children.

They came to Washington and created such a furor that the Washington Post printed a full-page story about broken BIA promises, broken self-determination. Within four days, there was a new national Indian education organization formed of grassroots people.

Ever since that time, the coalition has maintained its platform. Reform of the Bureau of Indian Affairs is one of the key points because we have to face reality. The area offices, in effect, stifle progressive Federal policy. There is no two ways about it.

There is another example that I would like to mention to you, that again illustrates what happens occasionally. The Indian Reorganization Act of 1934, which reestablished tribal governments, gave them recognition, gave them a line base. It was a progressively minded, generally important, culture preserving instrument.

It had certain defects. The biggest defect is in granting to the Secretary of the Interior the right to approve tribal constitutions. In almost every case, he has done so through the Bureau by incorporating clauses in tribal constitutions requiring him to also approve tribal ordinances.

That mechanism and reorganization of the Bureau since 1934, at least, in the form of decentralized offices, have combined to give the area directors inordinate powers over Indian tribal governments. In some cases, this has worked out in the form of unholy alliances. In some cases, the tribal chairman, we have noticed, and the area directors have combined to aid one another against the self-determination aspirations of people locally.

This is a delicate subject, but it needs to be mentioned. It needs to be exposed in the form of the discussion of this bill because, in a sense, this bill will finally put an end to that system.

It will, in effect, demote the area directors and keep them out of interfering with legitimate, rightful, and reasonable government.

To be specific, the coalition is firmly in favor of decentralizing BIA's education functions, and perhaps everything else out of the BIA, too. This bill deals only with education, as Mr. Isaac said, but we think that it is a forward step, even if it just deals with education.

Second, the coalition definitely favors the direct funding of Bureau schools and contract schools, which we interpret as meaning money coming directly from Washington to those schools.

Along with that, we are also in favor of the allotment formula funding approach which is also incorporated in this bill, which we interpret as meaning that schools around the country, whether they be in Alaska, Arizona, New Mexico, or Oklahoma, and whether they be Bureau schools or Indian contract schools, will receive a predictable amount of money, an equitable sum, so that their level of services will be comparable to those of other Bureau funded schools around the country.

I would like to close by saying one other important point. Next week you have invited the coalition to reappear before this committee to speak out the Johnson-O'Malley law. That opens up, necessarily, perhaps, the leading topic or issue that affects Indian education; namely, what to do about the two-thirds of Indian children in public schools.

We don't think that Indian education reform can be discussed without talking about that problem. So we would like to close our remarks today by urging that true reform will not take place in Indian education or the promises of true reform enumerated by 93–638 will not take place until something is done in the direct and bold fashion to make it possible for Indian communities around the country to get meaningful control of public school educational programs as well.

Thank you very much.

Mr. KILDEE. Thank you very much, Mr. Gross.

I think that this completes our formal presentations. At this point, we will have a few questions, and you may all respond to them, if you wish.

You mentioned some ways of getting dissemination of the information in this bill, or input back to the committee, so that the various tribes will be knowledgeable of its content. Can you suggest any other ways, in the next few weeks, that we can get dissemination of the bill to the various Indian groups, so that they can respond?

Do you think that the avenues we have mentioned here today are adequate to get that information out?

Mr. PEACHES. Yes. For the Navajo tribe, I would just ask that some kind of position paper be formulated over, let us say, 10 days.

Mr. KILDEE. You think that as far as the awareness of the contents of the bill, sufficient avenues exist now so that we will get the input back?

Ms. LOCKE. We would like to have copies of the bill or proposed legislation. As I mentioned earlier in my testimony, before we can explain some of the issues, I really need to understand why the impact aid would be amended, and why that is included. I truly do not understand that.

Mr. KILDEE. I think that several things can happen. At the termination of the hearing, the staff is prepared to sit down with you and discuss things with you. I am sure that you need to communicate with one another and make sure of what we have in mind here.

As far as copies of the bill, how many copies could be made available?

Mr. LOVESEE. We have disseminated 250 copies, but we are trying to get some more. We may even have to reintroduce it in order to obtain more copies.

Ms. AYER. We need copies to distribute to our member tribes. We would be glad to coordinate through the association for the comments, when they come back.

We would appreciate the staff being open or responsive to our inquiries because just in going over with Chief Isaac, and our staff, we have a number of questions that we simply do not understand the implications and the impact, and how this relates to self-determination, priority setting by tribes, and the priorities content.

So we would like to have you accessible to us to answer those questions, so we can explain them to our tribes. Then bring back to you their questions. It is going to take a little while to get that done.

Mr. KILDEE. Apparently, there are some logistics problems getting some bills, but we are working on that, because I can see that it is an inadequate number now for what you are asking. We should try to do something on this. We will work with the staff, and try to get sufficient copies for distribution.

Also, I think it is essential that you work with the staff, and get some answers to your questions.

Ms. AYER. We would need to provide some sort of technical assistance to the tribes in terms of the questions that were raised by the staff, which could be raised by the staff. We will need some assistance in terms of interpreting to them what these provisions mean. They aren't clear to me. So I would appreciate the help from the staff.

Mr. KILDEE. The staff will be prepared to do that. We can do that today, when we finish the formal hearing, and see what areas specifically are a little more obscure than others.

Ms. AYER. Thank you very much.

Mr. PEACHES. Does the committee have a summary of bills, could that be requested?

Mr. KILDEE. Perhaps a summary of the bill could be prepared also in addition to copies of the bill.

Ms. LOCKE. That would be very good.

Mr. KILDEE. Being a nonlawyer has its advantages at times.

Mr. LOVESEE. There is a brief summary of the bill. We are in the process of bringing it down. It is being done section by section, and we waited until we had printed copies, which we just got last week. They will also be available, and we will immediately get them out.

Mr. PRESSLER. If I may ask this question.

I have been getting some mail from that area from non-Indians who are concerned, I think that it is on page 5 of the bill, if you would turn to page 5; they are afraid that there is going to be virtually a veto power, where you would have Indians and non-Indians in the same school on an open reservation, such as we have in South Dakota. It says, under section (F), "in those instances where the tribe or tribes to be served by the public school shall formally reject the education plan adopted by such school, the Commissioner shall," then over on page 6, it goes on: "(G) If no negotiated plan is adopted within a reasonable time (to be established by regulation) after such negotiations begin, the Indian tribe or tribes concerned may, at their option, elect to," then the various options.

Now, I guess that it is up to Congress to say what this means. What does that mean to you? Would you seek that sort of veto power; do you read it the same way that I do, or that some of my people do?

Mr. Gross. I think that this is probably in many ways the key provision that has to do with public schools, at least, in the whole bill. I mentioned in my testimony that it is very important for Congress to keep in mind that public school system, where two-thirds Indian children attend, since Johnson-O'Malley was passed, Indian children have been transferred wholesale over the public school, under, perhaps, the genuine intention of Congress that public schools operate democratically, and therefore Indian children will have the same rights that other people do.

The fact remains that most of these public school districts are under non-Indian control, either directly because the local school boards are non-Indian controlled, or indirectly because State departments of education, or State public school systems are influenced by other than Indian viewpoints, or other than pluralistic viewpoints, one can say in general.

So avenues for safety valves, option provisions for Indian people, which is what I read this provision to be, are extremely important.

The key point here, and I am sure that most of the panel members would agree with me, Indian people are very diverse. Indian communities' needs are very diverse. One community may want to stay under civil service system, and the other may say, definitely not. One may want to be in a public school district, and one may not.

One may find it necessary to operate a Johnson-O'Malley program, and another may say that the public school system has to be controlled, lock, stock and barrel, by locally elected people.

Each community will have a different approach. To the extent that this provision adds to the options for local Indian communities, it is very important.

The only question that I would have about this provision is whether the rest of the section makes enough money available from all sources, or contemplates enough resources for those particular communities that want to opt out, so that they can actually start their own comprehensive education program.

Many communities have had to, somehow, jury-rig their own approaches to this program. Right now there is a small community in Oklahoma, called Hammon, which is mainly Cheyenne and Arapaho. In 1972, because of really intolerable conditions, once again, in the public school there, they decided to operate another school. They had no money, but they had Johnson-O'Malley, so they had some sort of fleshed out program the next year.

But they have to this day not been able to put together a funding package for themselves that really gives them a chance to develop what can be called a comprehensive, stable, permanent approach, and they need it desperately.

I am not sure about this section, and I would have to study it further, that it provides for that. But this is where things have to go.

May I add one further point. It is not as though there are 100, 50, or 25 Indian communities at this minute that could use this provision to opt out. I don't know how many there are, but the numbers don't have to be great, however, to accomplish an indirect reform function within the public school system.

The threat of losing the $100,000 or $200,000 from a Johnson-O'Malley program, for example, in a school district, like many in New Mexico, has untold benefits for making local school boards aware of Indian needs, and making them more responsive, whether they are controlled by Indian people or not.

Mr. **Pressler**. Considering some of the letters that we have received, I thought that I would appreciate your comments. Some cases in South Dakota, and in Summit, are examples of schools, as I recall they are located on reservations, I believe.

As I recall, they have about 10 percent Indian students who may well have been treated poorly in the past, and so forth. Maybe I should address that point. But there is some fear that that segment of the population would be doing in reverse of what we have done in the past. They would be giving that small segment of the population a veto power, as a practical matter, over the school budget.

I think that this is what people are saying, and maybe I misunderstand. I am not cognizant of exactly how this would work. But am I raising a point that is valid?

Mr. **Gross**. Are you asking me?

Mr. **Pressler**. Anyone who wanted to comment. I am not going to be able to come back after the vote.

Mr. **Kildee**. We have some votes going on on the floor, some of which I have to watch closely. I think that it might be beneficial to have the staff remain, and continue discussions with you.

In order to answer any questions that we have, we will keep the record open, and if you could submit those responses to the committee, and they would be made part of the record of this hearing.

I think that there will be some fruitful dialog taking place. I do apologize for having to leave now, but there is a vote going in the House. I stand ready, personally, to assist you, particularly in getting copies of both the bills, and the explanation.

Thank you very much, and the staff will remain and continue the dialog.

[Off the record discussion.]

Mr. **Lovesee**. Under the authority of Congressman Kildee, we will now adjourn the formal meeting of the subcommittee, and go into informal sessions between the staff and the witnesses.

[Whereupon, at 10:10 a.m., the subcommittee adjourned, to reconvene at the call of the Chair.]

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